FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET FOI/PA\# 21-cv-10719

Total Deleted Page(s) $=8$
Page $3 \sim$ b3 - 2 ; b6 - 2,3 ; b7C $--2,3$;
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Page $11 \sim$ b3 - -2; b6--2,3; b7C - 2,3 ;
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$X$ Deleted Page(s) $X$
$X$ No Duplication Fee $X$
$X$ For this Page $X$
$X X X X X X X X X X X X X X X X X X X X X X X X$
$\square$

## FEDERAL BUREAU OF INVESTIGATION

Electronic Communication

Title: (U) Two search warrants obtained and Date: 10/26/2015 served

From:


Approved By: $\square$
b6 -1,3 b7C -1,3 b7E -2,3,6

Drafted By: $\square$

Case ID \#: $\square$ (U)

Fugitive (A);
UFAP - Murder

Synopsis: (U) To document two search warrants obtained

Full Investigation Initiated: 10/22/2015

Enclosure(s): Enclosed are the following items:

1. (U) Initial target phone SW b3 -1
2. (U)
b6 -1,2
b7c -1,2
b7E -1
Details:

During the initial efforts to locate the captioned fugitive, it was learned, through historical records analysis and through information
 fugitive was using

As a result, on
 served one search warrant on $\square$ for the target number. Based on a historical analysis of the records obtained, the target number was confirmed to be used by the captioned fugitive (based on the identification of key individuals the target phone was calling). Due to the search warrant, $\square$ activated the $\square$ based services and the cell phone consistently was located in the
$\square$ area with a statistical error

## UNCLASSIFIED



|  | (approximately). Surveillance efforts were made on | b3 $\mathbf{- 1}$ |
| :--- | :--- | :--- |
| $10 / 22 / 2015$ | to locate the fugitive within these ranges without success. | b7E $\mathbf{- 1}$ |

Due to the inability to precisely
additional search warrant was obtained on 10/23/2015
non-disclosure agreement was also executed with the $\square$

(See attached in the 1A section of the file).
With all the approvals in place on $10 / 23 / 2015$ $\square$ resources were scheduled for 10/26/2015. However, On 10/24/2015, the fugitive discontinued use of this





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```
From:\square b6 -2
Sent: Fridav. October 23, 2015 1:42 PM b7C -2
To: 
Subject: FW: Fugitive case
```


$\mathrm{b}^{-2} \quad 21-\mathrm{CV}-10719(\mathrm{FBI})-13$


Thank you




I know your office is currently reviewing both of the documents I have sent you but If you can review the following notification and request the DA to acknowledge the receipt of the non-disclosure notification, we can start the process to provide assistance to locate in this instance.


A) -


Can I get an approval on this. It's an MOU mechanism. I sent this earlier. Having issues with Mail on the phone.


Begin forwarded message:


Below is a non-disclosure agreement (NDA) for use of the cell site simulator in the above case. An executive within thel must reply from their official email (to $\quad$ that they concur
with the terms in order for with the terms in order for
b3 -1 case.
b6 -2
b7c -2
b7E -1

The FBI has received a request for technical support from $\square$
Specifically, locating a celluiar device through the use of
law enforcement sensitive (LES) FBI investigative equipment in the above referenced case (as noted in the e-mail subject line).
The equipment to be deployed is considered LES as disclosure of the capabilities of this technology may allow future subjects of investigations to employ countermeasures to avoid detection by law enforcement.
The FBI recognizes that, due to the exigent circumstances in your case, there is not sufficient time to execute a formal, written non-disclosure agreement regarding the use of this equipment. Acceptance of the FBI's assistance in $\qquad$ in the above referenced case constitutes your agency's agreement to the following provisions:

- The requested assistance is to be used in the lawful execution of an
authorized function of the requesting agency.
b7E -2
- The assistance shall not be used outside of the jurisdiction of the requesting agency, nor beyond the geographical authority of the order or other legal process except as otherwise permitted by law (e.g., "hot pursuit."); and, in no event shall technical assistance pursuant to this request be used outside the United States.
- The Touhy process set forth at 28 C.F.R. $16.22,16.24$, and 16.26 will apply to any demand for testimony of any FBI personnel relating to the use of the equipment. The FBI will use all appropriate legal means to limit testimony regarding the technology in any state or local proceeding. However, if required by state law as part of the criminal trial or discovery process, this email

agency understands it is required to use additional and indenendent investigative means and methods, such as $\qquad$
that would be admissible at trial to corroborate information concerning the location of the target obtained through use of this equipment.
- The FBI must be contacted immediately if there is any request for, or intent to use publicly, any information relating to the assistance provided.
- The requesting agency acknowledges that any assistance provided is subject to the needs of the FBI and such assistance may be terminated at the discretion of the FBI.

Thank you,

$\square$

$\square$ authority to find fugitive.. phone still out in $\square$ but we're only Thanks..



Seeking $\square$ approval for use of $\square$ early next week. Today (10/23/2015) we obtained a search warrant per the new DOJ policy with the appropriate language (reviewed by $\quad$ nd we also obtained the approval of the regarding the Non Disclosure Agreement for the use of this LES equipment on a case involving a The $\qquad$ has been provided the same Non-disclosure agreement and they are anticipated to agree to the terms as they have done several times in the past. (The RSO executive manager will send their approval email when available in the near future).


Thank you.


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## FEDERAL BUREAU OF INVESTIGATION



Synopsis
(U) To open Preliminary Investigation $\square$


Details:

$$
\begin{aligned}
& \text { IT } 15 \text { HEREBY ORDERED that } \\
& \hline \\
& \text { talephone number) is compensated for reasonable expenses incurred while complying with the } \\
& \text { warant. }
\end{aligned}
$$


call progress locations (Automated Message Accounting Data), raw data information, subscriber names and addresses, credit information, application information, toll records (o included all outgoing and incoming calls), text messages $\square$, and billing information and unbilled records, other names or phone numbers associated with the account, upon oral or witten demand of ths

IT IS HEREBY ORDERED that the Telecommunication Company show
$\square$ Trap and Trace throughout the duration of the coun order. It is also ordered that the Telecommunication Company supply any and all saved or unsaved messages, recorded vice mail content, text message content to the investigating officer as requested, throughout the duration of the warrant. IT IS HEREEY ORDERED that this order by the court and that the
b3 -1,2
b6 -2
b7c -2
b7E -1 telecommunications companies shall not disclose the existence of the pen register, the trap and trace device or the existence of the investigation to the listed subscriber or to any other person, unless or untli otherwise order by the court.

## AND

1) INVESTIGATORS ARE HEREBY AUTHORIZED TO UTLIZE A DEVICE COMMONLYREFERRED TO ASA ANDIOR RELATED DEVICES.


On May 14, 2020, at 12:52 PM, $\square$ (FBI) $\square$ wrote:


Please see the NDA language in blue below and acknowledge by responding to this email:

RE: Fugitive $\square$


b6 -1,2
b7C -1,2
b7E -2
b6 -3
b7c -3
b7E -1




 कgreement regswhs we we of ths exswhent.

 agrement st the whowno prewims:
 whhores hunchon of the regsernhg egency.



 Hnsedstries.

 passumk to shs ressess.









 hemmess or \&hes.






[^0]
\#whw whw

| $\square$ | $b 3-1$ |
| :--- | :--- |
| acknowledge the intormation below. | $b 6-1,2,3$ |
| $b 7 c-1,2,3$ |  |
| $b 7 E-1,2$ |  |


b6 -1,2,3
b7C $-1,2,3$
b7E -2

Please see the NDA language in blue below and acknowledge by responding to this email:


 w wosk serecton by hww enfremens.

 of his equghens.

 prowisoms:
 fuction of he rewesthe agency.














- Wh/resis







b6 -1
b7c -1
b7E -2



## FEDERAL BUREAU OF INVESTIGATION

Import Form

Title:(U) $\square$ mail reference added language in Telephone Orders

Approved $\square$

Drafted By:

Case ID \#:


Synopsis: (U) $\square$ Email reference new language in $\square$ $\square$ The order/affidavit, with the inclusion of the "Manner of Execution" language, sufficiently complies with the new DOJ policy to authorize the use of the cell-site simulator to identify
 of a known $\square$

b6 -1, 3 b7C -1,3

We should be good to go. $\square$ gopied $\square$ so he's aware.

Sent: Thursday, October 22, 2015 1:20 PM
To:
Cc:

Subject: RE: $\qquad$ Fugitive warrant

From: $\square$ (FBI)
Sent: Tuesday, October 20, 2015 4:01 PM
To
b6 -1,2,3 b7c $-1,2,3$

Attached is an affidavit and order from $\square$ We worked with $\square$ and he added the "Manner of Execution" language. It appears all the other relevant info is in the order and affidavit, please take a look and let me know your thoughts. Thanks.


From:

(FBI)

## Sent; Tuesday, October 20, 2015 2:02 PM

## To: (FBI)

$\qquad$ Fugitive warrant b6 -1,2 b7c -1,2 Pls review

1

## FEDERAL BUREAU OF INVESTIGATION <br> Eleotronio Communication

Title: (U) Opening Communication Date: 05/20/2020


Synopsis: (U) Opening Communication

| Reference: | b7E -3,6 |
| :---: | :---: |
| Enclosure(s) : Enclosed are the following items: |  |
| 1. (U) Request for Assistance from |  |
| Office | b3 -1 |
| 2. (U) Nondisclosure Agreements | b7E -1 |
| 3. (U) Approvals from Division CDC |  |
| 4. (U) Approvals from Division CDC |  |
| 5. (U) Final Approved State Search Warrant. |  |

Details:


Title: (U) Opening Communication
Re: $\square$ 05/20/2020
 cameras caught the license plate of the suspect's vehicle. The

b3 -1
b6 -3
b7c -3
b7E -1
$\square$
however, there has been no recent activity.

analysis. A official agency request was submitted by $\square$
$\square$ and is included in the 1 A section of this communication. All members of the prosecutorial and investigative team for the District Attorney's Office agreed to abide by the FBI's nondisclosure agreement (NDA) in relationship to usage of the cell site simulator. A state


A copy of the emails containing the
NDAs and the approved search warrant will also be included as part of the 1A section.

The following information and documentation was forwarded through the


|  | (IMD) (CON) |  | $\begin{array}{rr} \text { b3 } & -1 \\ \text { b66 } & -1 \end{array}$ |
| :---: | :---: | :---: | :---: |
| From: | FBI) |  | $\begin{array}{ll} \mathrm{b} 7 \mathrm{c} & -1 \\ \mathrm{~b} 7 \mathrm{E} & -1 \end{array}$ |
| Sent: | Thursday, May 7, 2020 1:04 PM |  |  |
| To: | (FB) | (FBI) |  |
| Cc: | FBI) |  |  |
| Subject: | Re: Domestic Technical Assistan |  |  |

Legal approves pending review of the state search warrant. $\square$ approval required for the opening of the $\square$

b6 -1
b7c -1
b7E -2


Confidentiality Statement: This message is transmitted to you by the Office of the $\qquad$ of the FBI. The message, along with all attachments, may be confidential and legally privileged. If you are not the intended recipient, please destroy it promptly without further retention or dissemination. Please notify the sender of the error by a separate e-mall or by calling $\qquad$ message and its attachments belong to the FBI and may not be further disseminated without prior FB $\qquad$ $\square$ approval.




All,
A have reviewed the state SW and it complies with DOJ requirements and I approve moving forward. This is a serious crime and a good use of our assistance abilities. Please reach out to me if you have any other questions or concerns.

$\square$ of the $\qquad$


Confidentiality Statement: This message is transmitted to you by the Office of the $\square$ for the
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## (IMD) (CON)

## From:



Sent:
Thursday, May 7, 2020 10:32 AM
To:
Cc:

Subject:
Re: CSS Non Disclosure Agreement

Acknowledged
b6 -1,2

Thank vou.
$\square$

On May 7, 2020, at 5:41 AM, $\square$ (FBI) $\square$ b6 -1,2 wrote: b7C -1,2 b7E -2
$\square$
All,
The following is the FBI's Non Disclosure Agreement in relationship to use of
the Cell Site Simulator. Please review the document and let me know if you have any questions. If you understand and agree to the non-disclosure agreement, please respond to this email with a simple acknowledgment.

Thanks,

b6 -1
b7C -1
b7E -2
<CSS Non Disclosure Agreement.docx>

## From:

Sent:
Thursday, May 7, 2020 10:06 AM
To:
Subject:
Re: CSS Non Disclosure Agreement
b3 -1
Acknowledged. Thank you.
b6 -1,2
b7c -1,2
b7E -1,2
$\square$
Subject: CSS Non Disclosure Agreement

| All, |
| :--- |
| The following is the FBI's Non Disclosure Agreement in relationship to use of the Cell |
| Site Simulator. Please review the document and let me know if you have any |
| questions. If you understand and agree to the non-disclosure agreement, please respond |
| to this email with a simple acknowledgment. |
| Thanks, |
| ble |

## From:



Sent:
Thursday, May 7, 2020 10:29 AM
To:
Cc:
Subject:
Re: CSS Non Disclosure Agreement

I acknowledge.
Thank you,
$\square$

| Sent from my iPhone | b $-1,2$ <br> b7c $-1,2$ <br> b7E -2 |
| :--- | :--- |

On May 7, 2020, at 5:41 AM, wrote:
$\square$
All,
The following is the FBI's Non Disclosure Agreement in relationship to use of
the Cell Site Simulator. Please review the document and let me know if you have any questions. If you understand and agree to the non-disclosure agreement, please respond to this email with a simple acknowledgment.

Thanks,

b6 -1
b7c -1
b7E -2
$<$ CSS Non Disclosure Agreement.docx>

|  |  |
| :--- | :--- |
|  | IMD) (CON) |

I acknowledge.

Respectfully,
b3 -1
b6 -2
b7c -2
b7E -1

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## From

$\square$ (FBI $\square$
Sent•Thursdav_Mav $720205 \cdot 41 \mathrm{AM}$
To:
b6 -1, 2
b7c -1,2 b7E -2

All,
The following is the FBI's Non Disclosure Agreement in relationship to use of the Cell Site Simulator. Please review the document and let me know if you have any questions. If you understand and agree to the non-disclosure agreement, please respond to this email with a simple acknowledgment.

Thanks,
b6 -1
b7c -1
b7E -1,2


## Acknowledged

Sent via th $\square$ an



Subject: RE: CSS Non Disclosure Agreement
I acknowledge.
Respectfully,

```
b3 -1
``` b6 -2
b7c -2
b7E -1

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questions. If you understand and agree to the non-disclosure agreement, please respond to this email with a simple acknowledgment.

Thanks,

b6 -1
b7c -1
b7E -2

\section*{FEDERAL BUREAU OF INVESTIGATION}

Electronic Communication

Title: (U) Use of Cell Site Simulator Date: 06/29/2017

From:

\(\square\)
Approved By: SSA

Drafted By: \(\square\)

Case ID \#: \(\square\)
(U)

3. (U) Approval email
4. (U) Warrant

Details:


warrant is attached to this document.

From \begin{tabular}{l}
\(\square\) (SF) (FBI) \\
Sent: Thursday, June 22, 2017 \\
11:43 AM \\
Tq \\
Subject: Fwd: Emailing: Cell Site Simulator \(\square\) \\
\(\square\)
\end{tabular}
```

b6 -1
b7C -1
b7E -1,3,6

```
has reviewed and approved of a state warrant attached for target's. We already have open on this case with \(\square\) approval, so I'm not sure if this request has to go up thd \(\square\) as well. Please advise.
\begin{tabular}{|l|l|}
\hline & that occurred on \\
shooter). \\
went up on belonging th \\
\end{tabular} jecond phone). However, over the weekend it was discovered that The taroets are suspects in a
\(\qquad\)
 is the original number fo \(\qquad\) (suspected belongs to an associate with no known connection to the homicide. TT5 has since been taken down. Both have openly talked about having second phones, and have terminated calls on the monitored lines to continue conversations on those phones. \(\square\)
\(\square\) have been postponed until secondary phones are identified and monitoring begins.
 is also a suspect in a drive by shooting on \(\square\)
-------- Original message ------- FBI) \(\square\)
Date: 6/22/17 10:55 AM (GMT-08:00)
To: \(\qquad\) FBI) \(\square\)
Subject: Re: Emailing: Cell Site Simulator

b6 -1
b7c -1
b7E -2

\begin{tabular}{l} 
To: \(\square(\mathrm{FBI}) \square\) \\
\(\mathrm{Cc}: \square\) \\
\hline \\
\hline Subject: Fwd: Emailing: Cell Site Simulator \(\square\) \\
\hline
\end{tabular}
\(\square\)
Here is the draft warrant for the cell site simulator after review by \(\square\) He and \(\square\) Investigator \(\square\) are ccd.

Please acknowledge receipt and review. Thank you!
\(\square\)
From: Date: 6/21/17 5:40 PM (GMT-08:00)


Changes made ... here you go.


Your message is ready to be sent with the following file or link attachments:
Cell Site Simulator \(\square\)

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.


Greetings.
I have received the Nondisclosure Agreement.

(IMD) (CON)

Sent:
To:
Cc:

Subject:


Classification: UNCLASSIFIED

Please see the \(\square\) bmission ateached.

b3 -1
b6 -1
b7c -1
b7E -1,3

From: \(\square\) (OTD) (FBI)
Sent: Monday, November 09, 2015 12:08 PM
To: \(\square\) (OTD) (FBI)
Cc: \(\square\) (ER)(CON); \(\square\) (OTD)(CON); \(\square\) (OTD)(FBI)
Subiect: FW: Assigned Task: DUE noon 11/12/15 The FBI's Use of Cell Site Simulators (Stingrays) Hearing Paper \(\square\) Oversight Hearing --- SECRETAEORN
Importance: High

Classification:
Upon removal of attachment \((s)\), this document is UNCLASSIFIED//
Classified By: \(\square\)
Derived From NSIC dated 20130301
Declassify On: 20401231
(U/FOHe Bease assign this tosk within \(\square\) Youmay tash \(\square\) For adminhtrative and research assistance. Please note the denaled request deschbed below (Spbookmark Detaled xooz0 Beguest x00 \()\).
\[
\begin{aligned}
& \text { b3 }
\end{aligned}-1
\]
\(\ll\) File: FBI's Use of Stingrays.docx >>
Here are some previous responses that can fom the bases of your responses:
<< File: Department_Policy_Memo.pdf >> << File \(\square\) > << File:
Public_Affairs_Guidance_on_FBI_Cell_Site_Simulators_20150914.pdf >>


Classification: UNCLASSIFIED



External Tracking Number:
Title
Classification:
Priority:
Tasking POC:
Originator:
Deadline:
Summary Of Request:

Detalled Request
Description:
Sumar
b6 -1 b7c -1 b7E -2


The FB's Use of Cel Site Smuntor (Stingray Heang Paper - Dec 9 SC Annal Overght Hearing
UNGASSIFED
4 . Low

b6 -1
b7c -1
b7E -3
\(11 / 12 / 2015500 \mathrm{PM}\)
Taskedt \(\square\)
Action: Answer the guestions in the attached document. This is to prep the Director for the
\(12 / 9 / 5\) hearing. this response by Fiday, 11/13, CoB, but the actua taking innt due back ty \(\square\) mat 11/20. Task Hee The FBt's Use of Cel Site Smulats (Stingays) Heang Paper
Hearing mee \(201512005 C\) Amal Oversht Heang
The Drector is shedued to testify before the Serate wdicay Commitee on December 9 . 2015. The Office of Congressiona Aftars (OCA) Special Projects Unit (SPU), is cumently assigning tesk for the Questons \& Answer (Q8As) wat are needed to prepare him for his apparance.

This wil be an open heamo session कerefore undasmed responses are requested if it is necessary to indude casbified information to embance the Drectors undersanding of an issue then please ensure al matena is appropnately portion manked so it ts dear what can be said in an open setting.

Intended Audience and
Purpose:

Thanks,

Desk
Blackery \(\square\)
From:
Sent: Monday, November 09, 201511:02 AM
To:

(OTD) (CON); \(\square\)
\(\square\)
Subject: Assigned Task: The FBI's Use of Cell Site Simulators (Stingrays) Hearing Paper - Dec 9 SJC Annual Oversight Hearing

Hello,
You have been assigned as an approver on the following task: The FBI's Use of Cell Site Simulators (Stingrays) Hearing Paper - Dec 9 SJC Annual Oversight Hearing

Available Tracking Numbers
Tracking Number:
External Tracking Number:
Stingray
b7E -2,3
\(\square\) Tasks
The following are deadlines associated with this task:
Deadline: 11/12/2015 5:00:00 PM
This email was automatically sent, please do not reply.

Classification: UNCLASSIFIED

Classification: SERTORN

Classification: UNCLASSIFIED

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Page 2 ~ b3--1; b5--1; b6--1; b7C - -1 ; b7E--1;
Page 3 ~ b3 - -1 ; b5--1; b6--1; b7C - 1 ; b7E--1;
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Page 3 ~ b3 - -1 ; b5 - 1 ; b6--1; b7C -1 ; b7E -1 ;
Page 4 ~ b3 - -1 ; b5--1; b6--1; b7C - 1 ; b7E - -1 ;

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Page 4 ~ b5--1; b6--1; b7C - -1 ; b7E - -1 ;

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Sent:
To:
Subject:
Attachments:
Monday, November 30, 2015 12:33 PM
b6 -1
(OTD) (FBI) b7c -1
FW: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you --UNCLASSIFIED/AES
FBIs_Use_of_Stingrays_-finalresponse_11282015.docx;
FBIs_Use_of_Stingrays_finalresponse_11282015_clean.docx

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Classification: UNCLASSIFIED/



 prohbed. Precautons shoud be taken wenewe the mormaton is sored andor destoyed ma maner that

 mbmation merked res on a webste or an umbasmed nework.


Classification: UNCLASSIFIED/łモ叉S


 protection officis and individals whth need to know, Pistribution beyond these entites whout Fhathorization is prohbited. Precabtons should be taken to ensure this infomatom is stored and/or dextroyedim a manner that prechdes unauthorized access. momation bearing the fes caveat may not be used in legel proceedings without frot receiving athorization from the onginathg agency. Rechonents are prohbited from subsequenty posting the intormation marked Us on a webste or an unclasmined network.


Sory again for the delay, fe atached the \(\square\) adis in a racked version (so you and \(\square\) can see bhe minor changes), and then attached a fral "dean" version.

Please let me know by you need anything else:

Thank you,


Classification: UNCLASSIFIED/

(U) पشW distributed within the Federal Government (and its contrathors), US intellgence, aw enforcement, public satety or protection officals and individuls with a need to know. Oistribution beyond these entites without fblathoriation is prohbited, Precautions shoud be taken to ensure this infomation is stored and/or destroyed in a mamer that
 receiving authontation from the orignating agency. Fecipienc are prohbited from absequenty posting the infomation marked iES on a website or an unclashfeo network.

Thanks \(\square\) As inave explained to \(\square\) we don't get the fina \(\square \square\) approved version today, we'l just use the current version that \(\square\) provided and mark it as "drate" when we send it up to the Director.


Sent: Wednesdav_November 25, 2015 11:05 AM
To: pO)(FBI)
Cc: \(\square\) (OTD) (FBI)
Subject: RE: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you --- UNCLASSIFIED//4ES
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(U) לdistrbuted whin the Federal Govemmen (and its contractors), Us inteligence, bw entorement, pubhe satery or protecton ofthats and individub with a need to know. Distibution beyond hese enties whtout bithorizabon is prohbited. Precauthons show be taken to ensure this intomaton is stored and/or destroyed ma maner that predudes unathorized access. fofomation bearing the \& 5 caveat may not be used in legab proceedngs whout first receiving authoration from the orghathe agency. Recipients are prohbited from subseguenty posthe the mformathon marked US on a webste or an unclassifed network.


We senf wher for her review and copied he: \(\square\) as well. She is aware that we are past the due date, so would antipate that she will.

Apologies for the delays?
\(\square\)
From:
To:
\(\mathbf{C C}: \longrightarrow\)
(OTD) (FBI)
DO)(FBI)
\(\mathrm{Cc}:\)
DO)(FBI)
Subject: RE: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you --- UNCLASSIFIED/ \(/\) ESS

Classification: UNCLASSIFIED//エ®S
\(====================================================\)
TRANSITORY RECORD
Thank yo \(\square\) Any chanc \(\square\) will review today?
\(\square\)
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\text { b7c } & -1
\end{array}
\] \\
\hline \multicolumn{2}{|l|}{Sent: vednesdav november 25, 2015 10:01 AM} & b7E -2 \\
\hline To: & \[
\begin{aligned}
& \mathrm{DO})(\mathrm{FBI}) \\
& \mathrm{DO})(\mathrm{FBI})
\end{aligned}
\] & \\
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Subject: FW: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you --- UNCLASSIFIED/AES SharePoint Tasks List: OTD Tasks


Classification: UNCLASSIFIED/


 enforement phble safty or protechon ohicals and hodiduals whth a need to how bistributh beyond



 molasshed nework


From: Congressional Hearing Website
b6 -1
Sent: Friday, November 06, 2015 1:10PTV
To: \(\quad\) (OTD) (FBI)
Subject: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you SharePoint Tasks List: OTD Tasks

The FBI's Use of Cell Site Simulators... has been assigned to you

\footnotetext{

}

Fask sefe: The FBI's Use of Cell Site Simulators (Stingrays)" Hearing Paper
Assimmemsy OTD Task Members
Seavise Fisse: 20151209 SJC Annual Oversight Hearing
Noses:
The Director is scheduled to testify before the Senate Judiciary Committee on December 9, 2015. The Office of Congressional Affairs (OCA), Special Projects Unit (SPU), is currently assigning tasks for the Questions \& Answers (Q\&A's) that are needed to prepare him for his appearance.

This will be an e\& hearing session, therefore unclassified responses are requested. If it is necessary to include classified information to enhance the Director's understanding of an issue then please ensure all material is appropriately portion marked so it is clear what can be said in an open setting.

Click on the "Link to Document" at the bottom of this email to begin working on this paper.
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\section*{Decision Brief:}

\section*{Cell Site Simulator (CSS) NonDisclosure Agreement (NDA) Policy}



Sent:
To:
Cc:


Subject:
Decision Brief for CSS NDAs --- UNCLASSIFIEDTISES

Classification: UNCLASSIFIED//EES
ATTORNEY WORK PRODUCT/ATTORNEY-CLIENT PRIVILEGED INFORMATION/DELIBERATIVE PROCESS PRIVILEGED DOCUMENT
===========================================================1
TRANSITORY RECORD

b6 -1
and I went over these slides this morning, and attached are the final version. \(\square\) and I would be happy to brief
b7c -1
b7E -2 you and/or the \(\square\) pn this.
\(\square\)

\section*{FBI Office of the General Counsel \\ O \\ BBL}

E-Mail (U)
E-Mail (S):
Confidentiality Statement: This message is transmitted to you by the Office of the General Counsel of the Federal Bureau of Investigation. The message, along with any attachments, may be confidential and legally privileged. If you are not the intended recipient of this message, please destroy it promptly without further retention or dissemination (unless otherwise required by law). Please notify the sender of the error by a separate e-mail or by calling

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Respectuly,
\(\square\)

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\title{
U.S. Departuent of Justice \\ Federal Fureau of Investigation
}

Washnumor DC 2053500

October 14, 2011


\title{
Re: Parchase of Wireless Collection Equipment/Technology and NonDisclosure Obligations
}

\begin{abstract}





 pasting the information mirhed \(L S S\) on a metwide on an whilasmed netwark.
\end{abstract}

> Dear Commander \(\square\)
> b3 - 1
> b7E-1
> \(\begin{aligned} & \text { We have been advised by } \square \text { of the } \square \text { request } \\ & \text { to purchase certain wiresess collection equipmentechnology nanufactured by } \square \text { Consistent with the conditions on the equipment cathorization granted to } \\ & \square \text { a }\end{aligned}\) by the Federal Communications Commission (FCC), state and local law enforcenent agencies nust coordinate with the Federal Burear of Investigation (FBI) to complete this non-disclosure agrement prior to the acquisition and use of the equipmentlechnology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipmentlechnology to conduct lawfily-authonized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipmentitechnology to the public would reveal sensitive technological capabilites possessed by the law enforcement conmunity and may allow individuals who are the subject of investigation wherein this equipmentrechnology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforement officers and other

\section*{}
individuals, but also adversely impact criminal and natonal security investigations. That is, disclosure of this informaion condd result in the FBl's inablity to protect the pubic from terorism and other criminal activity because, through pubic disclosures, this technology has been rendered essentally useless for future investigations. In order to ensure that such wireless collection equipmenttechnology contmes to be available for use by the law enforcement conmunty, the equipmen/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precheding disclosure of this information to the public in any mamer including by not limited to: in press releases, in court docmmens durins indicial heanings, gr during other public forams or proceedings. Accordingly,

b3 -1
b7E -1
1. The
 vill ensure that operators of the equipment have met the operator training standards identifed by the FBI and are certified to conduct operations.
2. The will coordinate with the FBI in advance of its use of the wireless collection equipmentitechnology to ensure de-confliction of respective missions.
3. The will not distribute disseminate, or otherwise disclose any information conceming the wireless collection equipment/echnology or any sofware, operating manvals, or related technical documentation (including its technicalengineering description(s) and capablities) to the public, including to any nonlaw enforcement individuals or agencies.
4. The \(\square\) will not distribute, disseminate, or othervise disclose any information concerning the wireless collection equipmenthechnology or any software, operating manuals, or related technical documentation (inchding its technical/engineering description(s) and capabilites) provided to it any other law enforcement or government agency without the prior written approval of the EBI. Prior to any approved distbution, dissemination, or comparable disclosure of any information concerning the wireless collection equipnenttechnology or any software, manuals, or related techical documentation related to such equipmenttechmology, all materials shall be marked "Law Enforcement Sensitive, For Offcial Use Only - Not to be Disclosed Outside of the
5. The
\(\qquad\) use or provide any information conceming the its associated software, operating manuals, and any related documentation (including its techical/oxgineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology meluding, bat not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-inchiel, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBL. If the
 manuals, and any related docmmentation (including its technical/engincering description(s) and capabilities) beyond the evidentiary resnhts obtained through the use of the equipmenthechnology in a manner that will case law enforcement sensitive information relating to the techology to be nade known to the public, th will immediately notify the FBl in order to allow sufticient time for the fBl to intervene to protect the equipmenttechnology and information from disclosure and potental compromise.

Notification shall be directed to the attention of:
\(\square\)
Federal Bureau of Investigation Engineering Research Faclity Bullding 27958A, PodA
Onmico. Virsinia 22135
and


Operational Technology Division
Federal Bureau of havestigation
Engineering Research Fachity
Building 27958A, Pod B
Consilico virminia 22135

In addition, the \(\qquad\) will, at the request of the FBI, seek dismissal of the case in lien of using or providing or allowing ofhers to use or provide, any infomation concerning the
its associated soltware, operating manwals, and any related
doemmentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such mfomation would potentally or actually compromise the equipment/technology.
6. A copy of any court order in any proceeding in which the
\begin{tabular}{|l|l|l|l|l|} 
& is a party directing disclosure of information conceming the \\
\hline and any associated soltware, operating manuals, or
\end{tabular} related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to
intervene to protect the equipmentiechnology and information from disclostre and potential compromise. Any sach comt orders shall be directed to the attention of


Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Omantica. Vircinia 22135
and
b6 -1
b7c -1
b7E -2,3

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Oumbiso Vimima 22135
7. \(\qquad\) will not publicize its purchase or use of the Jor any of the capabilities afforded by such equipment/echoology to the public, other Law enforcenent agencies, or other govemment agencies, inchuding, but not himited to, in any news or press releases, interviews, or direct or indrect statements to the media.
8. In the event that the \(\qquad\) receives a request pursuant to the Freedom of Information Act ( 5 U.S.C. \(\$ 552\) ) or an equivatent state or local haw, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the
its associated soffware, operating manuals, and any related docsmentakion (inctudra its techmical/engineering description(s) and capabilities), the vill immediately notify the fBl of any such request
tekephonically and in writing in order to allow sufficient time for the FBT to seek to prevent discosure through appropriate channels. Notification shall be directed to the attention of:

b6 -1
b7C -1
b7E -2

and


Operational Technology Division
Federal Bureau of Investigation
Bagineering Research Facility
b6 -1
b7c -1
b7E - 2,3

Building 27958A, \(\operatorname{Pod} B\)
Quantico, Virginia 22135

The \(\square\) acceptance of the above conditions shall be evidenced by the signatures below of an authorized representative and wireless collection equipment
bs -1 b7E -1 operators of the \(\qquad\)

Sincerely,


Acknowledged and agreed to this \(\qquad\) 2011.


FEDERAL BUREAU OF INVESTIGATION
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Upon removal of attachment(s), this document is UNCLASSIFIED

TRANSITORY RECORD






\section*{This is the
1. Act
Res
R}

AK
(h)
2. Action: OTO to proactyely icanty areas which might be made clearer in the NDA.



b. Response: Identification of areas (from the NDA) which might be made clearer in a replacement document are incorporated in 3. below.
3.



Classification: UNCLASSIFIED

TRANSITORY RECORD template. Task is due \(10 / 19 / 2015\).

Thanks.

Titie
Classification:
Prionty:
Tasking POC:
Originator:
Deadine:
Summary Of Request:

b5 -1
b6 -1
b7c -1
b7E -2,3
b6 -1
b7c -1
b7E -2


Hello,
You have been assigned as an approver on the following task: Cell Site Simulator - NDA Meeting with \(\square\)

Available Tracking Numbers
b6 -1
External Tracking Number

b7c -1
b7E -2,3

The following are deadlines associated with this task:
Deadline: 10/19/2015 5:00:00 PM
This email was automatically sent, please do not reply.

Classification: UNCLASSIFIED

Classification: UNCLASSIFIED//EFS

Respectully,
```

b6 -1
b7c -1

```

\section*{U.S. Department of Justice \\ Pederal Bureau of Investigation}

Waxhington DC. 205350001
November 20, 2014

\section*{IN TURN}

b3-1

\section*{Re: Acquisition of Cell Site Simulator/Pen Register Equipmenv/Technology and Non-Disclosure Obligations}
\(\square\)
We have been notiffed of th \(\qquad\) request for acquisition of cetain cell site simulator/pon register equipment providing cellutar device locating and identifying capability. Consistent with the condition on the equipment authorization granted by the Federal Communications Conmission, State and local law enforcement agencies must coordinate with the Federal Bureau of Tmvestigation (FBI) to complete this non-disclosure agrement in order to acquire and use cell site simulatorpen register equipment/technology.

Law enforcement agencies rely on cellular device locating and identifying capabibty to help meet their law enforcement and public safety responsibilities. Disclosure of certain information about cell site simulator/pen register equipment and techniques to the public, such information referred to by the Federal Govemment as Law Enforcement Sensitive (LES), would
allow adversaries of haw enforcement to diminish or thwart law enforcenent efforts, thereby crabling such adversanies to evade detection and circumvent the law. Disclosure of even minor detals about this technology or its use may reveal more information than its apparent insignificance suggests because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual piece is not of obvious importance in itself. Thas, disclosure of what appears to be imocuous information about cell site simulators would provide adversaries with critical information about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumulate information and draw conclusions about the ase and technical capabilities of the technology. In tum, this would provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwart the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are often used in connterterronism and countrintelligence investigations. Thus, compromise of the law enforcement community's investigational equipment and methods in a criminal case or a public records disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concems, the FBI has consistenty asseted that the details conceming the use, implementation and application of cell site simulator technology is both lave enforcement sensitive and protected homeland secunity information, and any disclosure could easily impair the use of this important iavestigative method. In recognition of this vumerability, the FBy has, as a mather of policy, protected this category of electronic surveillance equipment and technigue from disclosure, directing its agents that while general facts that a suryellance or location operation was conducted in comection with a specific case may be disclosed, neither details as to the equipment's operation nor the tradecraft involved may be disclosed. See United States \(v\). Rigmaiden, 845 F.Supp. 982 (D.Ariz. 2012); Gnited States v. Garey, 2004 WL. 2663023 (M.D.Ga. Nov. 15, 2004).

As mentioned earker any information concerning cell site smulator equipment or techology (including, but not limited to infomation about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training REvision: 2
materials conceming the capabilities or technology, or tradecraft required to operate the equipment) authorized by the FBI to be provided to your agency is considered protected honeland security information under the Homeland Security Act ("GISA"). Under 6 U.S.C. § 482 (e), homeland security information "obtained by a State or local govemment from a Federal ageacy under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requing such government to disclose information shall not apply to such information." The HSA defines "homoland security information" as information that relates to the ability to prevent, interdict, or disnegt terrorist activity, information that would impove the idenification or investigation of a suspected terrorist or terrorist organization; or information that would improve the response to a terronist act. See 6 U.S.C. \(\$ 8482(\mathrm{I})(1)(\mathrm{B})\) (D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agres and understands that disclosure of protected honeland security infomation is specifically probibited ander Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United States
 principle, Federal law preempts State law where Congress has said so explicitly).

Finally, by entering into this agreenent, you acknowledge that you understand cell site simulator techology is a reguated defense article on the United States Mmitions List (USML"). See 22 C.E.R. \(\$ 121\), (b). As such, technical details conceming this technology are subject to the non-disclosure provisions of the International Traffic In Ams Regulations (IAAR"), 22 C.FR., Parts \(20-130\). The TTAR implements the Ams Export Control Act, 22 US.C. \(\$ 2778\), and Execuive Order 13,637 , which control the export and import of defenserelased articles and services hsted on the USML. Because this equipment is explicitly govemed by the 1 TAR, 22 C.ER. \& 123.1 requires anyone to obtain a hcense from the Department of State prior to making an expont. Notably, technical infomation does not have to leave the borders of the United States to be deemed an export subject to the regulation. See 22 C.ER. 8120,17 (defning an export as the disclosure of technical data about a defense article to a foreign national, even while located in the Tnited States). Consequently, if a State or local government disseminates any part of the technical infomation to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it
accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at its offices, this cond constitute a viohation of the Arms Control Export Act. Usathorized disclosure of ITAR-controlled nformation is a felony punishable by up to 20 years imprisonment and ap to \(\$ 1\) milion per occurcence. See 22 C.F.R., Part 127.

Accordingly, to preserve the continued efficacy of the capabinty for the Law Enforcemens Conmunity, the \(\square\) and \(\square\) gree to the following conditions in connection with the acquisition and use of the cell site simulatorpen register equipment/technology:
1. The signing State or municipal govenment official affims that he or she has the authority to lawfully obligate his or her State or manicipality to the conditions of this agreement. Moreover, the official affirms that appropriate legal counsel has detemined the nondisclosure obligations herein are defensible moder State law, as possibly augmented by Federal statutory protections, such as migh be necessary for public records access requests, and that the State or municipality will itself perfom due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing law enforcement agency offcial affims that he or she has the authonity to lawfully obligate his or her agency and its persomel to the condtions of his agrement. Moreover, the official affirms that the law enforcement agency will itself perfom due difigence in mecting its nondisclosure obligations as and when necessary.
3. The signing law enforcemme agency officil affrms that the appropriate chef prosccuting official(s) representing the jurisdiction(s) of possible use of the agency's cellular device identifying and locating capability was (were) nothied of the law enforcement agency's intended acquisition of the equipment/techology and he or she (they) indicated an moderstanding that use of the capability in a specific prosecutorial jurisdiction by the law enforcment agency is conditioned on the chief prosecuting oficial's separate writen non-disclosure agrecment with the FBI (notification and request for the separate agreement to be made as indicated in condition 10 . below).

Furthermore, the law enforcement agency official agrees that, after exhaustion of all other lawfir means, including implenenting advice and assistance from the FBI, the law enforement agency will, at the request of the FBI, seek dismissal of the case with the prosecutorial jurisdiction in heas of using or providing, or allowing obers to use or provide, any sensitive infomation conceming the cell site simulator/pen register equipment/techology in criminal litgation.
4. The signing law enforcement agency official affirms that the law enforcement agency has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations within State or mumeipal jurisdictions that are also party to appropnate, related nondisclosure agreements with the FBI. Moreover, the law enforcement agency assumes responsibilty for operating the equipnent/technology in accordance with State and Federal law and regulaton and accepts sole liabilty for any violations thereof itrespective of the Federal Bureau of Investigation approval, if any, for the acquisition of the equipment/technology.
5. The signing law enforcement agency official affims that he or she monderstands and acknowledges that this equpment, under Federal law, functions as a pen register device as defned in 18 U.S.C. 3127 ), and that 18 U.S.C. 3121 (a) prohibits any person, including law enforcement, from operating a pen register device withont frrst obtaining a court order, or having energency pen register authonty under cither State or Federal law, as applicable. The signing law enforcement agency official agrees that he or she will not permit the operation of the device without having a courtissued pen register order or emergency pen register authority as outined in Federal or State law.
6. The signing law enforcement agency offictal affims that he or she understands that he or she is prohibited by Federal law from intercepting the content of any communications with a pen register device, and that he or she must use technology reasonably avaikable to the agency to restrict the equipmont to recording or decoding electronic or oher impulse to the dialing, routing, addressing and signaing information uilized in the processing and fransmitting of wire or clectronic communications. See 18 U.S.C. \(\$ 3121\) (c).
7. The signing law enforcement agency official affirms that operators of the equipment meet the operator traming standards, identified separately by the FBI, before operating the equipment, are certificd by their agency to conduct operations, are notified of the conditions of this agreement and are legally bound to this agrement by virtue of their employment or through an intenal written contract with the agency or State or municipal govermment.
8. The State or municipal government and/or law enforcement agency may, whout first obtaining prior approval fom the FBI, confirm or disclose in public for official business only, including for the pirpose of obtaining relevant legal authority, the following: 1) the agency has cell site simmlatorpen register equipnent (withou disclosing make and model) that provides the capability to locate or identify a cellular device, 2) a description of the legal authority relied upon for asing the capability, 3) a description not containing LES information (see conditions 9. and 10. below) of agency policies or practices that ensure legal comphiance and protection of third party privacy nghts, 4) the fact that the capability might cause temporary diswotion of service for certain celluar devices in the operating area, 5) that the equipment was used to detemine general location information about the target celluar device, and 6) that the capability is a sensitive investigative technique so farther details are protected and will not be publely disclosed or conhmed. Note: The preceding provisions shall be narrowly and strictly construed. Any questions regarding interpretation or scope of these provisions nust be addressed with the FBI prior to disclosure.
9. Except for the strictly constructed permission in condition 8. above or for necessary deliberations between relevant officials necessary for coortination of this nondisclosure agreement, criminal or civil litigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protece LES infomation and timely notice to the FBI pursuant to this agreement is presumed, the State or municipal govermment and law enforcement agency will not, absent writen FBI approval, distribute, disseminate, disclose, or oberwise confim any LES information, as determined by the

FBI, concerning the cell site simulator/pen register equipment technology to the public, including to any non-law enforcement individuals or agencies not otherwise part of this agreement. These restrictions include, but are not limited to, tradecran, technical details, functional limitations or vulnerablities, mamafacturer, model name, hardware, software, operating manuals, related technical documentaton (including technical/engineering descriptions and capabilities), the item costs, or related entries in acquisition, funding, grant, or procarement documents, such documents ofen being susceptible to publie disclosure by State or municipal financial authorities.
10. The signing State or muniomal govermment officiak and the signing law enforcement agency official affim on behalf of their respective organizations that questions about or determinations of what constitutes LES or protected homeland securisy infornation will be deferred to the FBI. If the State or municipal govemment or law enforcement agency receives a request or order to disclose any information about the cell site simulator equipmen/technology, or leams of such anticipated activity, an appropriate official will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/techology.

All notifications or inquiries regarding this agreement and the subject capability shall be directed to the attention of:
\begin{tabular}{l}
\hline \\
\hline Operational Technology Division \\
Federal Bureau of Investigation \\
Engincering Research Facility \\
Building 27958 A \\
Quantico, Virginia 22135 \\
Telephon
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b7C -1
b7E -2,3
11. The signing law enforcement onicial understands and acknowledges that his or her agency's approval to acquire and use the cell site simblator is expressly conditioned on exection of and adherence to this non-disclosure agreement with the FB. In the event that the FBI detemines the agency is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacturer to discontinue services for, or disable, the agency's cell site simulator/pen register equipment.
12. Once signed, the conditions of this agreement remain in effect antil rescinded in writing by the FBI, except that the agreement must be re-accomplished amually. If the State or municipal govermment, law enforcement agency, and prosecutor's office do not all agree to the annual rencwal, or the annal agreement period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agreenent, the FBI reserves the righe to rescind its endorsenent of the law enforement agency's acquisition and ase of the equipment and to take all lawful action as indicated in condition II. above.
13. The signing State or muncipal government offcial and the signing law enforcement agency official affim that any successors to their positions will be notified about this agrement and of the requirement to adhere to the conditions herein to cusure the agency's continued use of cell site simulatos/pen register squipmentlechnology. Similarly, the signing law enforcement agency official affirms that any successor to the position of the chef prosecuting official will be notified of the separate prosecutorial non-disclosure agreement and of the requirement to adhere to that agreement in order to ensure the law enforcement agency's continaed use of cell site simulator/pen register equipmenttechnology. In any instance of succession in this context, the law caforcement agency official will notify the FBI as indicated in condition 10. above.

The acceptance of the above conditions shall be evidenced by the signatures below of authorized representatives of the \(\square\) and \(\square\)

Sincerely,


Uperational lechnology Divesion
Federal Burean of Investigation
Acknowledged and agreed to this 1 st day of December, 2014. Renewal is due in one year.

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\title{
W.S. Department of lustee \\ Pederal Bureau of Investigation
}

Washinglon, DC 20535-6001
December 4, 2014

b3 -1
b7E -1

Re: Acquisition of Cell Site Simulator/Pen Register Equipmen/Technology and Non-Disclosure Obligations
\(\square\)
We have been notified of the \(\square\) equest for acquisition of certain cell site simulatorpen register equipment providing cellular device locating and identifying capabihty. Consistent with the condition on the equipment authorzation granted by the Federal Communications Commission, State and local law enforeement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement in order to acquixe and ase cell site simulatorpen register equipment technology.

Law enforcement agencies rely on cellular device locating and identifying capability to heip meet their law enforcement and public safety responsibinties. Disclosure of certain information about cell site simulator/pen register equipnent and techniques to the public, suein information referred to by the Federal Government as Law Enforcement Sensitive (LES), would allow adversaries of law enforcement to diminish or thwart law enforcement efforts, thereby enabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this techmology or its use may reveal more infomation than its apparent insignificance suggests because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual picee is not of obvious importance in
itself. Thas, disclosure of what appears to be imoctous information about cell site simulators would provide adversaries with critical information about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumulate information and draw conclusions about the use and technical capabilities of the technology. In turn, this would provide them the information necessary to develop defensive technology, modify their behaviors. and otherwise take contemeasures designed to thwan the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, eqgipment, and tools used in criminal cases are often used in comterterronism and conntermelligence investigations. Thus, compromise of the law enforcement community's investigational equipment and methods in a criminal case or a public records disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concems, the FBI has consistently asserted that the details concerning the use, implementation and application of cell site simulator technology is both law enforcement sensitive and protected homeland security information, and any diselosure could easily impair the use of the impontant hestigative method. In recogntion of this vuncrability, the FBI has, as a matter of policy, protected this category of electronic surveilance equipment and technique from diselosure, directing its agents that while general facts that a surveillance or location oparaton was conducted in connection with a specific case may be disolosed, nether detals as to the equipment's operation nor the tradecraft involved may be disclosed. See United Stales \(v\) Rigmaiden. 845 F.Supp. 982 (D.Ariz. 2012); United States v. Garey, 2004 WL 2663023 (M.D.Ga. Nov. 15,2004).

As mentioned carlier, any infonation conceming cell site simulator equipment or technology (including, but not himited to information about the operation of the equipment or technology itself, limitations or capabilites of the equipment or technology, any training materials conceming the capabititics or technology, or tradecraft required to operate the equipment) authorized by the FBI to be provided to a state law enforcement agency is considered protected homeland security information wnder the Homeland Security Act ("USA"). Under 6 U.S.C. \& \(482(e)\), homeland security information "obtamed by a State or local govemment from a Federal agency under this section shall renain under the control of the Federal agency, and a

State or local law authorizing or requing such goverment to disclose information shall not apply to such infomation." The HSA defines "homeland security information" as infomation that relates to the ability to prevent, interdict, or disrupt terorist activity, information that would ingrove the identification or investigation of a suspected terorist or terrorist organization; or intomation that wond improve the response to a texrorist act. See 6 U.S.C. \(\$ 8482\) (f)(1)(B)-(D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and understands that diselosure of protected homeland security information is specifically probibited under Federal kaw, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Aricle VI. clause 2) of the United States
 praciple, Federal law preempss State law where Congress has said so explicitly).

Finally, by entering into this agreement, you acknowiedge that you anderstand cell site simulator techmology is a reguated defense article on the United States Munitions List ("USML"). See 22 CFR.S 121.1 (b). As such, techmical details concerning this technology are subject to the non-disclosure provisions of the International Traffic In Arms Regulations ("ITAR"), 22 CF.R., Pars 120-130. The ITAR implements the Arms Export Control Act, 22 US.C. \(\$ 2778\), and Executive Order 13,637, which control the export and import of defenserelated articles and services listed on the USML. Because this cquipment is explicitly govented by the ITAR, 22 CFR. 8123.1 requires asyone to obtain a license from the Department of State prior to making an export. Notably, technical information does not have to leave the borders of the United States to be deemed an export subject to the regulation. See 22 CF.R. § 120.17 (defining an export as the disclosure of technical data abont a defense article to a foreign national, even while located in the United States). Consequenty, if a State or locd govermment disscminates any part of the techncal imfomation to an entity knowing that the entity intends to or is likely to publish or further disseminate the intormation in some fashion that would make it accessible to non-U,S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at is offces, this cond constitute a violation of the Arms Control Export Act. Unauthorized disclosure of TAR controlled information is a felony punishable by up to 20 years imprisonment and up to \(\$ 1\) milhon per ocourence. See 22 CER., Bart 127.

Accordingly, to preserve the continued efticacy of the capability for the Law Enforcement Community, the \(\square\) agrees to the following conditions in connection with the acquisition and use of the cell site simulator/pen register equipmenttechiology:
1. The signing chef prosecuting official (CPO) affirms that be or she has the authority to lawfully obligate his or her agency to the conditions of this agreement. Moreover, the official affirms that appropriate legal counsel has determined the nondisclosure obligations herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the agency will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing CPO affirms that the above-named law enforcement agency's acquisition and use of cellular device identifying and locating capability is conditioned on this separate witten non-disclosure agrement with the FBI. Furthemore, the CPO agres that, after exhaustion of all other lawfil means, including implementing advice and assistance from the FBI, the prosecuting agency will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any sensitive infomation concerning the cell sike simulator/pen register equipment/echnology in criminal litigation.
3. The signing CPO affirms that the above-named law enforcement agency has statutory authority to lawfully employ this technology in support of public safety operations or criminal investigations.
4. The signing CPO affims that he or she understands and acknowledges that this equipnent, under Federal law, functions as a pen register device as defined in 18 US.C. \(\$ 127(3)\), and that 18 U.S.C. \(\$ 3121\) (a) prohibis any person, including law enforcement, from operating a pen register device without first obtaining a court order, or having energency pen register authority under either State or Federal law, as applicable.
5. The CPO's agency may, without first obtaining prior approval from the EBI, confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: I) the above-named law entorcement agency has cell site simalator/pen register equipment (without disclosing make and model) thas provides the capability to locate or identify a cellular device, 2) a description of the legal authority relied upon for using the capability, 3) a description not containing LES information (see conditions 6. and 7. below) of the above-named law enforcement agency's policies or practices that ensure legal compliance and protection of third party privacy rights, 4) the fact that the capability might cause temporary disruption of service for centain cellular devices in the operating area, 5) that the equipnent was used to determine general location information about the target cellular device, and 6) that the capability is a sensitive investigative technique so further details are protected and will not be pubicly disclosed or confirmed. Note: The preceding provisions shall be namrowly and strictly construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.
6. Except for the stricty constmoted pemission in condition 5 . above or for necessary deliberations between relevant offcials necessary for coordination of this nondisclosure agrecment, criminal or civil litigation discovery considerations, or public records access request processing, in which the exercise of due dhigence to protect LES information and timely notice to the FBI purstant to this agreement is presumed, the prosecuting agency will not, absent written FBI approval, distribute, dissominate, disclose, or otherwise confirm any LES information, as determined by the FBF, concerning the cell site simulatorpen register equipmentitechnology to the public, inchding to any non-law enforcement individuals or agencies not otherwise part of this agreement. These restrictions include, but are not limited to, tradecrat, technical details, funchonal limitations or vuherabilities, manfacturer, model name, hardware, software, operating manuals, related technical documentation (including technical/engineering descriptions and capabilities), line item costs, or related entries in acquisition, funding, grant, or
procurement docaments, sueh documents often being susceptible to public disclosure by State or muncipal financial authorities.
7. The signing CPO affirms on behalf of her or his agency that questions about or determinations of what constitutes LES or protected homeland security information will be deferred to the FBL. If the prosecuting agency receives a request or order to disclose any information about the cell ste simulator equipmenttechrology, or leams of such anticipated activity, an appropriate official will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/techology.

All notifications or inquiries regarding this agreement and the subject capability shall be directed to the attention of:

b6 -1
Operational Technology Division
Federal Bureau of hivestigation
Engineering Rescarch Facility
Building 27958A
Quantico, Virginia 22135
8. The signing CPO understands and acknowledges that the above-named law enforcement agency's approval to acguire and use the cell site simulator is expressly conditioned on all relevant parties' execution of and adherence to this non-diselosure agreement with the FBI. In the cvent hat the FRI detemines the any party is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacturer to discontinue services for, or disable, the agency's cell site simulatorpen register equipment.
9. Once signed, the conditions of this agrement remain in effect until rescinded in whiting by the FBI, except that the agxeement must be re-accomplished annually, If the State or
muncipal government, law enforement agency, and prosecutor's office do not all agree to the amual rexewal, or the anmal agreement period otherwise expires (one year from the acknowledged and agred date) without a completed renewal, or any one of them do not abide by the conditions of she agreement, the EBI reserves the right to rescind its endorsement of the law enforcement agency's acquisiton and use of the equipment and to take all kawfulaction as indicated in condition 8 above.
10. The CPO affims that any successor to her or his position will be notified about this agreement and of the reguirement to adhere to the conditions herein to ensure the abovenamed law enforcement agency's continued use of cell site simulator/pen register equipment/technology, In any instance of suceession in this context, the CPO's agency will notify the FBI as indicated in condition 7 . above.
b3 -1
b7E -1 authorized representative of the

Sincerely,


Federal Burcau of Investigation
\[
\begin{array}{ll}
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\text { b6 } & -1 \\
\text { b7c } & -1 \\
\text { b7E } & -1
\end{array}
\] due in one year.
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\hline Federa Burean of havestigation & b7e 1 \\
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Re: Addendum to Febrady \(15,2012^{\text {Acquisiton of Wireless Collection }}\)
Equipnent/Technology and Non-Diselosare Obligation"

Continued from Page 6 of 6 :
The \(\qquad\) acceptance of the above conditions shall be evidenced by the
addtional signatures below of an authorized representatye and wreless collection equipment operators of b3 -1 the

Havig read and merstood the agreement in its entirety, I agree to adhere completely to the ates and implications of this Non-Disclosure Obligation.

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b3 -1
b6 -2
b7c -2
b7E -1

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\title{
U.S. Mepartment of rustice \\ Federal Bureau of mestigation
}

Wemment \(\mathrm{DC}\).

December 1. 2014

b3 -1

Law enforcement agencies rely on celluar device locaing and idenifying capability to help meet their law enforcement and pablic safety responsibilities. Disclosure of certain intomation about cell site simulator/pen register equipment and techniques to the public, such information referred to by the Federal Govemment as Law Enforcement Sensitive (ESS), would alow adversaries of law coforcement to diminish or thwart law enforcement efforts, thereby enabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its use may reveal nore bromation than its apparent insignificance suggess because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual piece is not of obvious importunce in
isself. Thus, disclosure of what appears to be innocuous information about cell site simulators would provide adversaries with critical infomation about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumblate infomation and draw conclusions about the use and technical capabilities of the feotmology. forn, this would provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwan the we of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same kechnques, equipnent, and tools used in criminal cases are often used in counterterrorism and commerinteligence investigations. Thus, compromise of the law enforcement communty's investigational equipment and methods in a criminal case or a public reconds disclosure coald have a significant detrimental impact on the national security of the United States.

Due to these concems, the CBI has consistently asserted that the details concerning the use, implementation and application of cell site simulator technology is both law enforcement seasitive and protected homeland security information, and any disclosuxe conld easily impais the use of this important investigative method. In recognition of this vulnerabitity, the FBI has, as a matter of policy, protected this category of electronic survellance equipment and techmique from disclosure, directing its agents that while general facts that a survellonce or location operation was conducted in connection with a specific case may be disclosed, neither detats as to the equipment's operation nor the tradecrat involved may be disclosed. See United Staies \(v\). Rigmaiden, 845 F.Supp. 982 (D.Asz. 2012); United States y. Garey, 2004 W1. 2663023 (M,D,Ga, Nov, 15, 2004).

As mentioned earher, any information concerning cell site simulator equipment or technology (including, but not limited to infomation abont the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training materals concerning the capabilties or technology, or tradecraft requited to operate the equipnent) authonzed by the FBI to be provided to a state law enforcement agency is considered protected homeland secunty infomation under the Homeland Security Aet ("HSA"). Under 6 U.S.C. \& \(482(e)\), homeland security information "obtained by a Siate or local government fron a Federal agency under this section shall remain under the control of the federal agency, and a

State or local law authorizing or requing such govermment to diselose information shall not apply to such information." The HSA defnes "homeland secarity information" as infomation that relates to the ability to prevent, interdict, or disnupt terrorist activity, information that would improve the identification or investigation of a suspected terronist or terrorist ogeanization; or insomation that would improve the response to a teronst act. See 6 U.S.C. \(8 \$ 482(\mathrm{~B})(\mathrm{B})(\mathrm{B})\)-(D). Cell site simulator techology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and miderstands that disclosure of protected homeland security information is specitically prohibited under Federal law, and that this law expressly precmpts state and local disclosure laws moder the Supremacy Clause (Article VI, clatse 2) of the United States
 principle, Federal law preempts State law where Congress has said so explicitly).

Fmally, by entering into this agreement, you acknowledge that you understand cell site simulator technology is a regulated defense article on the United States Manitions List (USME"). See 22 C.R.R. \(\$ 121.1\) (b). As such, technical details conceming this techology ate subject to the non-disclasure provisions of the International Traffic In Arms Regulations ("TAR"), 22 CER., Pars 120-130. The ITAR implenents the Arms Export Control Act, 22 U.S.C. 82778 , and Executive Order 13,637 , which control the export and import of defenserelated articles and services listed on the USML. Because this equipment is explicitly govened by the TTAR, 22 CFR. \(\$ 123.1\) requires anyone to obtain a license foom the Deparment of State pror to making an export. Notably, technical mformation does not have to leave the borders of the United States to be deemed an export subject to the regulation. See 22 C.F.R. § 120.17 (defining an expor as the disclosure of technical data about a detense article to a foreign mational. even while located in the United Siates). Consequently, if a State or local govemment disseminates any part of the technical infomation to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at is offices, this could constitute a violation of the Ams Control Export Act. Unauthorized disclosure of ITAR-controlled information is a felony panishable by up to 20 years imprisonment and up to \(\$ 1\) milhon per occurrence. See 22 C.ER., Part 127.

Accordingly, to preserve the continued efficacy of the capability for the Law Enforcement Community, the Department of Justice agrees to the following conditions in comection with the \(\square\) acquisition and use of the cell site símulatorpen register equipment/ectmology:
1. The signing chief prosecuting offcial (CPO) affims that he or she has the authority to lawfuly obligate his or her agency to the conditions of this agrecment. Moreover, the official affirms that appopriate legal counsel has detemined the nondisclosure obigations herein are defensibie under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public recoros access requests, and that the agency wilt itself perform due diligence in meeting its nondisclosare obligations as and when necessary.
2. The signing CPO affrms that the above-named law cnforcement agency's acquisition and use of cellular device identifyng and locaing capability is conditioned on this separate written won-disclosure agreement with the FBI. Furthermore, the CFO agrees that, ater exhaustion of all other lawful means, including implementing advice and assistance from the FBI, the prosecuting agency wil, at the request of the FBI, seek dismissal of the case in lien of using or providing, or allowing others to use or provide, any sensitive information concerning the cels site simulatovpen register equipment/technology in criminal litigation.
3. The signing CPO affims that the above-named law enforcement agency has statutory authority to lawfully enploy this technology in support of public satety operations or criminal investigations.
4. The signing \(C P O\) affims that he or she understands and acknowledges that this equipment, under Federal law, hunctions as a pen register device as defned in 18 U.S.C. 3127(3), and that 18 U.S.C. 33121 (a) prohibits any person, including law enforcement, from operating a pen register device without first obtaning a court order, or having emergency pen register authoriky under either State or Federal law, as applicable.
5. The CPO's agency may, without first obtaining pror approval from the FBI, confim or diselose in public for official business onty, including for the purpose of obtaining relevant legal authority, the following: 1) the abovenamed law enforcement agency has cell site simulatomen register equipment (without disclosing make and model) that provides the capability to locate or identify a cellular device, 2 ) a description of the legal authority relied upon for using the capabibity, 3) a description not containing LES information (see conditions 6. and 7. below) of the above-named law enforcement agency's policies or praciices that ensure legal complance and protection of third party privacy nights, 4) the fact that she capability might cause temporary dismption of service for certain cellular devices in the operating area, 5) that the equipment was ased to detemine general location information about the target cellular device, and 6 ) that the capabilisy is a sensitive investugative technique so further detals are protected and will not be pubicly disclosed or confmed. Note: The preceding provisions shall be narowly and stricty construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI pror to disclosure.
6. Except for the strictly constructed permission in condition 5 . above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civil itigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protect LES information and timely notice to the FDI pursuant to this agrement is presumed, the prosecuting agency will not, absent written FBI approval, distribute, disscminate, disclose, or otherwise confirm any LES information, as determined by the FBI, conceming the cell site simulatorpen register equipnenttechology to the public, including to any non-law enforcement individuals or agencies not otherwise part of this agreenent. These restrictions include, but are not limited to, tradecraft, technical details, functional limitations or vulnerabilities, manufacturer, model name, hardware, software, operating manwals, related technical documentation (ncluding technical/engineering descriptions and capabilities), line item costs, or related entries in acquisition, funding, grant, or
procurement documents, such documents often being susceptible to pubhe disclosure by State or municipal hnancial authorities.
7. The signing CPO affims on behaif of her or his agency that questions about or deteminations of what constitutes LES or protected homeland security information will be deferred to the FBI. If the prosecuting agency veccives a request or order to disclose any infomation abont the cell site simatator equipment/echnology, or leams of such anticipated activity, an appropriate official will inmediately notify the FBL in order to allow sufficient time for the FBI to assist in protecting the equipmenttecmology,

All notifications or inquinies regarding this agrement and the subect capability shall be directed to the attention of:


Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Bulaing 27958A
Quantico, Virginia 22135
8. The signing CPO understands and acknowledges that the above-named law enforement agency's approval to acquire and use the cell site simulater is expressly conditioned on all relevant paties' exention of and adherence to this non-disclosure agreement with the FBI. In the event that the EBI determines the any party is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacturer to discontinae services for, or disable, the agency's cell site simulatorpen register equipment.
9. Once signed, the conditions of this agreement remain in effect untl rescinded in writing by the FBl, except that the agreement must be re-accomplished annually. If the State or
municipal govermment, law enforcenent agency, and prosecutor's office do not all agree to the annal renewal, or the annal agreenent period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agrement, the FBI reserves the right to rescind its endorsement of the law enforcement agency's acquisition and use of the equipment and to thke all lawful action as indicated in condition 8 . above.
10. The CPO affirms that any successor to her or his position will be notifed about this agrecnent and of the requirement to adhere to the conditions herein to ensure the abovenamed law enforcement agencys continned use of cell site simulatorpen register equipment/technology, In any instance of succession in this context, the CPO's agency wll notify the FBI as indicated in condition 7 above.

The acceptance of the above conditions shall be evidenced by the signature below of the authorized representative of the Department of Justice

Sincerely,


Federal Bureau of huvestigation
b3 -1
b6 -1
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 due in one year.


\section*{U.S. Department of Justice}

Federal Bureau of Investigation

Washingtor, DC 2035-000

December 1, 2014

IN TURN
\(\square\)
Re: Acquisition of Cell Site Simulator/Pen Register Equipmen/Techology and Non-Diselosure Obligations


We have been notified of the \(\square\) request for acguisition of certain cell site simulatonpen register equipnent providing celluar device locating and identifying capability. Consistent with the condition on the equipment auhorization granted by the Federal Communications Commission, State and local law entorcement agencies must coordinate with the Federal Buxeau of Investigation (FBI) to complete this non-disclosure agrement in order to acquire and use cell site simslator/pen register equipment/technology.

Law enforcement agencies rely on celluar device locating and identifying capability to help meet their law entorcement and pubic safety responsibilities. Disclosure of certain intornation about cell site simulatorpen register equipment and techniques to the public, such intormation referred to by the Federal Govemment as Law Enforcement Sensitive (LES), would
allow adversaries of law cuforcement to diminish or thwast law enforcement efforts, thereby enobling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this techology or its use may reveal more infomation than its appaxent insignsficance suggests because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual piece is not of obvious importance in itself. Thus, disclosure of what appears to be innocuous thomation about cell ste simulators would provide adversaries with critical information abouk the capabilities, limitations, and circumstances of their use, and would allow those adversarics to accumbate information and draw conclusions about the use and technical capabilities of the technology. In twrn. this woula provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwart the use of this technology in order to cvade detection by law enforcement and creumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are often used in counterterrorism and comnterinteligence investigations. Thus, compronise of the law enorcenent community's investigational equipment and methods in a criminal case or a pablic records disclosure could have a significan detrimental impact on the national security of the United States.

Due to these concems, the FBI has consistently asserted that the details concerming the use, implementation and application of cell site simulator technology is both law enforcement semsitive and protected homeland secunty information, and any disclosure could easily impair the use of this important hevestigative method. In recognition of this vunerability, the FBI has, as a matter of policy, protected this category of electronic sarvellance equipment and techique from disclosure, directing its agents that while general lacts that a surveilance or location operation was conducted in connection with a specific case may be disclosed, neither details as to the equipnent's operation nor the tradecraf involved may be disclosed. See United States \(v\). Rignaiden, 845 FSupp. 982 (D.Axiz. 2012); United States v. Garey, 2004 WL 2663023 (MD.Ga, Nov, 15, 2004).

As mentioned carlier, any information conceming cell site simulator equipment or technology (including, but not limited to information about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training REVSION 2
materials concerning the capabilities on technology, or tradecrat required to operate the equiment) authorized by the FBI to be provided to your agency is considered protected homeland security information under the Homeland Security Act ("HSA"). Under GU.S.C. § 482 (e), homeland security information "obtained by a State or local government from a Federal agency under this section shall remain wnder the control of the Federal agency, and a State or lowal law authorizing or requing such govemment to disclose information shall not apply to such information." The MSA defines "homeland security information" as information that relates to the ability to prevent, interdiet, or disrupt terrorist activity; information that would improve the identification or investigation of a suspected terrorist or terrorist organization; or intormation that would mprove the response to a terrorist act. See 6 U.S.C. 8 \& 482 ( \()\) (1)(B) (D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and understands that disclosure of protected homeland secunty information is specincally prohibited ander Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United Stases
 principle, Federal haw preempts Stare law where Congress has said so explicity).

Finally, by entering into this agrement, you acknowiedge that you undersuand cell site smanator techology is a regulated defense article on the United States Munitions List (USME"). See 22 C.FR. \& 121.1(b). As such, techncal details conceming this technology are subject to the non-disclosuxe provisions of the Intemational Traffe In Ams Regulations (sTAR"), 22 CFR., Parts 120-130. The TTAR implements the Amm Export Control Act, 22 U.S.C. \(\$ 2778\), and Executive Order 13,637 , which coutrol the export and inport of defenserevated anticles and services listed on the USML. Because this equipmen is explicitly govemed by the \(\mathrm{TAR}, 22 \mathrm{CFR} . \$ 123\), requires anyone to obtain a hicense from the Deparment of State prior to making an export. Notably, techusical infomation does not have to leave the borders of the United States to be deemed an expor subject to the regulation. See 22 CF.R. \& 120.17 (defining an export as the disclosure of technical data about a defense article to a foreign national, even while located in the United States). Consecuenty, if a State or local govermment disseminates any part of the technical information to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it
aceessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at is offices, this conld constitue a violation of the Ams Control Export Act. Uxauthorized disclosure of TTAR-controlled information is a felony punishable by up to 20 years imprisonment and up to \(\$ 1\) milion per occurrence. See 22 C.F.R., Part 127.

Accordingly, to preserve the contimed efficacy of the canability for the Law Enforcement Community, the \(\qquad\) and agree to the following conditions in connection with the acquisition and use of the cell site simblator/pen regiser equipment/techology:
1. The signing State or municipa government official affims that he or she has the authority to lawfully obligate his or her State or muncipality to the conditions of this agreemen. Moreover, the official affims that appropnate legal counsel has detemined the nondisclosure obligatons herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the State or municipality will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing law enforcement agency official affims that he or she has the authority to lawfully obligate his or her agency and its persomel to the conditions of this agreement. Moreover, the official affims that the law enforcement agency will itself perform due diligence in meeting is nondisclosure obligations as and when necessary.
3. The signing law enforcement agency official affirms that the appropriate chef prosecuting official(s) representing the jurisdiction(s) of possible use of the agencys cellular device identifying and locating capability was (were) notified of the law enforcement agency's intended acquisition of the equipmenttechnology and he or she (they) indicated an understanding that use of the capability in a specific prosecutorial jurisdiction by the law enforcement agency is conditioned on the chief prosecuting official's separate written non-disclosure agreement with the FBI (notification and request for the separate agrement to be made as indicated in condtion 10 . below).

Furhemore, the law enforcement ageney official agees that, after exhaustion of all othex lawill means, including implementing advice and assistance from the FBL, the law enforcement agency will, at the request of tite FBI, seek dismissal of the case with the prosecuiorial jurisdiction in hev of using or providing, or allowing others to use or provide, any sensitive infomation conceming the cell site simalatorpen register equipment/technology in criminal Itigation.
4. The signing law cxforcement agency official affirms that the law enforement agency has statutory authority to lawfully employ this technology and will do so only in suppot of public safety operations or criminal investhgations within State or municipal jurisdictions that are also party to appropnate, related nondisclosure apreenents with the FBL. Moreover, the law enforement agency assumes responsibilty for operating the equipment/techology in accordance with State and Federal law and regulaton and accepts sole hability for any violations thereof, mespective of the Federal Bureau of Investigation approval, if any, for the acquisition of the equipmenttechnology.
5. The signing law enforcement agency official affirms that he or she moderstands and acknowledges that this equipnent, under Federal law, functions as a pen register device as defined in 18 U.S.C. \(\$ 3127(3)\) and that 18 U.S.C. 3121 (a) prohibits any person. including law enforcement, from operating a pen register device without frst obtaining a court order, or having emergency pen register authonty under either State or Federal law, as applicable. The signing law enforcement agency official agres that he or she will not permit the operation of the device without having a courtissued pen register order or emergency pen register authority as outhed in Federal or State law,
6. The signing law enforcement agency official affirms that he or she understands that he or she is prohibited by Federal law from intercepting the content of any communications with a pen register device, and that he or she mask use technology reasonably available to the agency to restrict the equipmeni to reconding or decoding electronic or other impulse to the dialing, routing, addressing and signaling information uilized in the processing and transmiting of wire or electronic communications. See 18 U.S.C. \(\$ 3121\) (c).
7. The signing law enforcement agency official affirms that operators of the equipment mee the operator traming standards, identifed separately by the FBl, before operating the equipment, are certified by their agency to conduct operations, are notified of the conditions of this agreement, and are legally bound to this agrement by virtue of their employment or through an internal writen contrack with the agency or State or municipal govermment.
8. The State or municipal govemment andor law enforcement agency may, without firss obtaining prior approval from the FBl , confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the agency has cell site simulator/pen register equipment (without disclosing make and model) that provides the capability to locate or identify a celludar device, 2 ) a description of the legal authority relied upon for using the capability, 3 ) a description not containing LES infomation (see conditions 9. and 10. below) of agency policies or practices that ensure legal compliance and protection of third party privacy rights, 4) the fact that the capability might cause temporary disruption of service for certain cellular devices in the operating area, 5) that the equipment was used to determine general location infomation about the target cellular device, and 6) that the capabilty is a sensitive investigative technigue so furher details are protected and will not be publicly disclosed or confirmed. Note: The preceding provisions slall be narrowly and stricty construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.
9. Except for the strictly constructed permission in condition 8 . above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civil hitigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protect LES information and timely notice to the FBI pursuant to this agreement is presumed, the State or municipar goverment and law enforcement agency will not, absent writen FBI approval, distribute, disseminate, disclose, or ofherwise conimm any LES infomation, as determined by the

FBI, concerning the cell site simulator/pen register equipmenttechnology to the public, including to any non-law enforeenent individuals or agencies not otherwise part of this agrement. These resirictions include, but are not himited to, tradecraf, techical details, functional limitations or volnerabilities, manufacturer, model name, hardwate, software, operating manuals, related technical documentation (inchuding technical/engineeng descriptions and capabibites), line tiem costs, or retated entries in acquisition, funding, grant, or procuremert documents, such documents often being susceptible to public disclosure by State or municipal financial asthorities.
10. The signing State or municinal govemment offetal and the signing law enforcement agency official affrm on behalf of their respective organizations that questions about or determinations of what constitutes LES or protected homeland security information will be deferred to the FBL. If the \(\$\) tate or muicipal govemment or law enforcement agency receives a request or order to disclose any infomation abont the cell site simulator equipment/echnology, or learns of such anticipated activity, an appropriate offecal wit immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/technology.

All notifications or inguries regarding this agreenent and the subject capability shall be directed to the attention of:

11. The signing law enforcement official understands and acknowledges that his or her agency's approval to aequire and use the cell site simulator is expressly conditioned on execution of and adherence to this non-disclosure agreement with the FBI, In the event that the FBI determines the agency is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacturer to discontinue services for, or disable, the agency's cell site simulatorpen register equipment.
12. Once signed, the conditions of this agreenent remain in effect until rescinded in writing by the FBI, except that the agreemen must be re-accomplished annually. If the State or municipal govemment, law enforcement agency, and prosecator's office do not all agree to the annual renewal, or the ammal agreenent period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agrement, the FBI reserves the right to rescind its endorsement of the law enforemen agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 11. above.
13. The signing State or municipal govemment offctal and the signing law enforcement agency official affirm that any successors to their positions will be notified about this agrement and of the requirenent to adhere to the conditions herein to consure the agency's continued use of cell site simulator/pen register equipment/echnology. Similarly, the signing law enforcement agency offcial affims that any successor to the position of the chief prosecting offical will be notified of the separate prosecutorial non-disclosure agrement and of the requirement to adhere to that agreement in order to ensure the law enforcement agency's continued use of eell site simulatovpen register equipment technology. In any instance of succession in this context, the law enforcement agency official will notify the FBI as indicated in condition 10 above.

The acceptance of the above conditions shall be evidenced by the cimatives holav- af authorized representatives of th a \(\square\) and

Sincerely,


Operational Technology Division
Federal Bureau of Investigation
 due in one year.

bs -1
b7E -1

\(\square\)

Astention:


Contractor respectfully requests approval to provide \(\square\) capability to the attached state \& local law enforcement agency. Per the defined process, please contact this agency to executc the FBI NDA.

Sincerely,

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b7E -1

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b3 -1

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b7E -1


\section*{Contact Information:}

\[
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& \text { b3 } \\
& \text { b6 } \\
& \text { b } \\
& \text { b7C } \\
& \text { b7E }
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\section*{Operator information:}


All indiwiduatc that with be onerationo \(\square\) within the department


b3 -1
b6 -2
b7C -2 b7E -1

Suly 10,2013


Operational Technology Division.
Federal Burcau of Invesrigation
Atm:
Federal Burear of Investigation
Re: Addendum to January \(3,2013{ }^{4}\) Acquistion of Wreless Collection
Equipment/Tecmology and Non-Diselosure Obligation"

Continued from Page ( 6 ) of ( 8 ):
The \(\qquad\) acceptance of the above conditions shall be
b3 -1 b7E -1 evidenced by the additional signatures bslow of an authorized renrescogative and wireless collection equipment operators of the

Having read and understood the agreement in its entrey, I agree to adhere completely to the rules and implications of this Non-Disclosure Obligation.


\(\square\)
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b3 -1

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b7E -1

b3 -1

Continued from Page (7) of (8):

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b6 -2
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b7E -1



Continaed from Page (7) of (8);

\[
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\text { b3 } & -1 \\
\text { b6 } & -2 \\
\text { b7C } & -2 \\
\text { b7E } & -1
\end{array}
\]



May 1, 2014


Federal Bureau of Investigation
b6 -1
Attu:


Federal Burcau of Investigation
Re: Addendum to October 142011 NDA "Acquisition of Wireless Collection Equipment/Techoology and Non-Discosure Obigation"

Continued from Page (1) of (2):
The \(\qquad\) acceptance of the above conditions shall be evidenced by the additional signatures below of an authorized representative and wireless collection equipment operators of the \(\square\)

Having read and understood the agrement in its entrety, I agre to adkere conpletely to the rules and implications of this Non-Diselosure Obligation.




\section*{b6 -1 \\ b7c -1}

Re: Addendum to August 8, 2011 , "Acquisition of Wireless
Collection Equipmen/Technology and Non-Disclosure
Oblyation"
Continued from Page (4) of (4):
The \(\square\) acceptance of the above conditions b3 -1 shall be evidenced by the additional signatures below of an authorized
representative and wreless collection equipment operators of the
b7E - 1 representative and wireless collection equipment operators of the
\(\square\)
Having read and anderstood the agreenent in its entirety, lagree to adhere completely to the rules and implications of this Non-Disclosure Obligation.

Sincerely,


Acknowledged and agreed to this \(\qquad\) day of \(\qquad\) , 2013.

b3 -1

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\text { b3 } & -1 \\
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\text { b7E } & -1
\end{array}
\]


Operational Technology Division
Federal Bureau of Investigation
Attr: \(\square\)
Federal Bureau of Inyestigation
Re: Addendum to March 29, 2013 "Acqusition of Wieless Collection Equipment/Technology and Non-Disclosure Obligation*

Continued from Page 6 of 6 :


Having read and understood the agreemen in its entirety, I agree to adhere completely to the rules and mplications of this Non-Diselosure Obligation.

Acknowledged and agreed to his \(28^{6}\) day of April. 2014.
\(\square\)
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b6 -2
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\(\square\) b3 -1

April 7,2015


Re Addendum to March 29, 2013 "Acquisition of Wireless Collection Equipment/echnology and Non-Diselosure Obligation"

Conthated from Page 6 of 6 :


Having read and understood the agreement in its entrety, \(\{\) agree to adhere completely to the neles and implications of this Non-Dizelosore Obligation.

Acknowledged and agreed to this \(7^{\text {h }}\) day of April, 2015.
\(\square\)

\title{
UNKLASSIHED/LAW ENFORCMMENT SLNSTIVF
}

\author{
U.S. Beparmment of bustice \\ Federal Bureas of trversigation
}

Waskimgton DC. 205350001
November 1, 2013


Re: Acquisition of Wireless Collection Equipment/Techology and NonDisclosure Obligations

\begin{abstract}



 stored andor destroyed in a moner that prechedes watwhorzed wcess. Drfomation bearing the leS caveat moy nol be used in
 porting the information marked LES si a website on an unclasyithed network
\end{abstract}


We have been advised by \(\square\) of the \(\qquad\) reguest for acquisition of cerain wireless collection equipment/technology manufacured by
\(\qquad\) Consistent with the conditions on the equipment authorization granted to by the Federal Communications Commission (FCC), state and local law entorement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acgusition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wirelas collection equipmenttechnology to conduct lawfully-anthorized electronic survellance. Disclosing the existence of and the capabilities provided by such equipment/echnology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subjec of investigation wheren this equipment/technology is used to employ countemeasures to avoid detection by law enforcenent. This would not only potentilly endanger the lives and physical safety of law enforcement officers and other


\section*{}
individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this infomaton could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipmentechology continues to be avalable for use by the law enforcment communty, the equipmenthechnology and any mformation related to its functions, operation, and use shall be protected from potental compromise by precluding disclosure of this information to the pubic in any manner including but not limited to: in press releases, in cout documents, during judicial hearings, or during other public formas or proceedings. Accordingly, the \(\square\) agrees to the following conditions in connection with ats acquisition and use of th:
1. By entering into this agreenent, the \(\square\) mfims that it has statutory anthority to lawtilly employ his technology and will do so onfy in support of puble safeiy operations or criminal investigations.
2. The
assumes responsibility for operating the equipment/techology in accordance with Federal law and regulation and accepts sole hability for any violations thereof, imespective of the Federal Burean of Investigation approval, if any, for the sale of the equipmentitechnology.
3. The will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
4. The \(\square\) will coordinate with the FBI in advance of its use of the wireless collection equipmenttechnology to ensure de-confiction of respective missions:
5. The \(\qquad\) will not distribute, disseminate, or otherwise disclose any information conceming the wireless colletion equpmenvtechnology or any sofware, operating maxuals, or related techaical documentation (nelading its technical/engineering description(s) and capabilites) to the public, including to any nonlaw enforcement individuals or agencies.
6. The \(\qquad\) Will not distribute, disseminate, or otherwise disclose any infomation concening the wircless collection equipment/technology or any software, operating manuals, or related teelmical documentation (including its technical/engineering description(s) and capabilisies) provided to it to any other law enforcement or goverment agency without the phor written approval of the FBL. Prior to any approved distribution, dissemination, or comparable disclosure of any information conceming the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipmen/techology, all materials shall be narked "Law Enforcement Seasitive. For Otficial Use Ony ~ Not to be Disclosed Ouside of the \(\qquad\)

7. The \(\square\) shall not, in any civil or criminal proceeding, use or movide any information concerning the \(\square\) wireless collection \(\square\) its associated software, operading manwals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipmentitechnology including, but not limited to, during pre-trial matters, in search warrants and related affedavits, in discovery, in response to court ordered disclosure, in oher affidavits, in grand jury hearings, in the State's case-in-chef, rebattal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the Dleams that a District Attomey, prosecutor, or a court is considering or intexds to use or provide any information conceming the \(\qquad\)
\(\square\) its associated sotware, operating manuals, and any related documentation (including its techmical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipnent/techoology in a manner that will cause law enforcement sensitive mifomation relaing to the technology to be made known to the public, the
\(\square\) will immediately notify the FBI in order to allow sufficien time for the FBI to mtervene to protect the equipment/techology and infomation from disclosure and potential compromise.

Notification shall be directed to the attention of:

8. In addition, the will, at the request of the FBl, seek dismassal of the case in ifeu ol asme or proving, or allowing others to use or provide. any information conceming the its associated sofrware operanng manuars, and any related coctmentanon (beyond the evidentiary results obtained through the use of the equipment/techology), if using or providing such information would potentially or actually compromise the equipment/echology. This point supposes that the agency has some control or inthence over the prosecutonal process. Where such is not the case, or is limited so as to be inconsequential, it is the FBI's expectation that the law enforcement

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\section*{}
agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.
9. A copy of any court order in any proceeding in which the
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b7E -1 is a varty directing disclosure of infomation conceming the and any associated softwate, operating manuals, or melated docunentation (moluding its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipmenttechnology and infomation from diselosure and potential compromise. Any such court orders shall be directed to the attention of:

and


Federal Bureas of Investigation Engineering Research Facilty
Building 27958A, Pod B
Guantion Vimigua 22135
10. The Wwill nof pubicize its acquisition or ase of the or any of the capabilities afforded by sum equymenm/techmology to the public, other law enforcement agencies, or other govemment agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.
11. In the event that the \(\qquad\) feceives a request pursuant to the Freedom of Infomanon ACl (5 U.S. .8532 ) or an equivalent state or local law, the civil or criminal discovery process, or other judiciak, legislative, or administrative process, to disclose information concerning the \(\square\) its associated software, operating manuals, and any related documentation (inciudng its technical/engineering description(s) and capabilities), the will inmediately notify the Fal of any such request telephonicaly and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure firough appromate chamels. Notification shall be directed to the attention of:


Enginecring Research Facility
Building 27958A. Pod A
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Ouantico. Viroinia 22135
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and


Operational Technology Division
Federal Bureau of livestgation
Enginecring Research Facility
Bailding 27958A, Pod B


The acceptance of the above conditions shall be evidenced by the signatures below of an amborized representative and wireless collection equipnent operators of the


Operational Technology Bivision
Federal Bureau of Investigation

Acknowledged and agreed to this \(1^{\text {m}}\)
day of NWWEMBE 2013.
\(\square\)

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b7E -1

\author{
US. Department of fustice \\ Federal Bureau of Invesigation
}

Apris 5, 2013


\section*{Re: Acquisition of Wireless Collection Equipment Technology and NonDisclosure Obligations}

\begin{abstract}





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\end{abstract}


We have been advised by \(\square\) of the \(\square\) request for acquisition of cerbin wreless collection cqupmenthechnology mandfachued by
\(\qquad\) Consistent with the conditions on the equipnent authorization grated to by the Federal Communications Commission (FCC), state and local law enforement agencies must coordinate with the Federal Burear of Investigation (FBI) to complete this non-disclosme agrement prior to the acquistion and twe of the equipmenttechnology athorized by the fCC authonzation.

As you are aware, law enforcement agences increasingly rely on wireless collection equipmenttecthology to conduet lawfully-authorized electronte survellance. Disclosing the existence of and the capabilites provided by sueh equipmentitechnology to the public would reveal sensitive technological capabilities possessed by be law entorement communty and may allow individuals who are the subject of investigation wherein this equipmenthechnology is used to employ comtemeasures to avoid detection by law enforcement. This wobld not only potentially endanger the lives and physical satety of law enforcement officers and other
individuals, but aso adversely impact criminal and national secmity investigations. That is, disclosure of this infomation could result in the FBT's inability to protect the public from terrorism and othe ciminal activity because, through public disclowures, this tedmology has been rendered essenhally useless for future investigations. In order to ensure that such wireless collection equipmenttechology comtinues to be available for use by the law enforcement communty, the equipmentechology and any infomation related to its functions, operation. and use shall be protected from potential convpronise by preduding disclosure of this information to the public in any mamer inoluding but not limited to: in press releases, in court documents, during jwicial hearings, or during other public forms or procedings. Accordingly, the \(\square\) agres to the following condtions in comection with is acquisition and use of the
1. By entering into this agrement, the \(\square\) affims that it has statutory athonty to lawfuly cmploy this technology and will do so only in support of public satety operations or crminal investigations.
2. The \(\square\) assames responsibility for operating the equipmentechology in accordance wih Federal law and regulation and accepts sole liobity for any violations thercof, irrespective of the Federal Buread of lavestigation approval, if any, for the sale of he equipmenttechnology.
3. The \(\square\) will ensure that operators of the equipment have met the operator training standards idenified by the FBS and are certified to conduct operations.
4. The \(\square\) will coordinate with the FBI in advance of its use of the wireless collection equipment technology to cnsure de-confiction of respective missions.
5. The will not distribute, disseminate, or otherwise diselose any information concerning the wireless collection equipmenttechnology or any soltware, operating manals, or related technical documentation (inchoding is technical/engineering deseription(s) and capabifties) to the public, including to any nonlaw enforement individuals or agencies.
6. The Wwil not distribute, disseminate, or otherwise disclose any information conceming the witeless collecton cquipmenthechnology or any software, operating manuals, or rebed technical documentation (inclading its rechnicalengineering description(s) and capabilities) provided to it to any other law entorcemens or govemment agency without the prion written approval of the FBI, Prior to any approved dismbution, dissemination, or comparable disclosure of any infomation concening the wireless collection equipmenttechnology or any software, manuals, or related technical documentaton selated to such equipmentechnology, all materads shall be marked "Law Enforcement Sensitive, For Ofticial Use Onty - Not to be Disclosed Outside of ma



\(\square\) iis associated sofware, operating manuals, and any related documentation (including its technicalengineering description(s) and capabilites) beyond the evidentiary results obtained through the use of the equipment technology inchading bat not limied to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other aftedavits, in grand jury hearings, in the State's case-in-chef, rebutal, or on appeal, or in testimony in any phase of civil or criminal trial, whout the prior written approval of the FBI. If the \(\square\) leams that a District Attomey, prosecotor, or a court is
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mamals, and any related documentation (including its itechnsocalengineering descripationg and capabilities) beyond the evidentiary results obtaned through the use equipmentlechology in a mamer that will cause law entorcement sensitive infoma the relating to the techology to be made known to the public, the \(\square\) will immediately notify the FBI in order to allow sufferent time for the FBl to intervene to protect the equipmenttechology and infomation from diselosure and potental compromise.

Notification shall be directed to the attention of:

8. In addition, the \(\square\) will, at the request of the FBI, seek dismissal of the case in heu of asmo or fromong, or allowing ofhers to use or provide, any information conceming the its associated softwate, operamg mandals, and any reated dochmentanon weyono ace evidentiary results obtamed through the use of the equipmentitechnology, if using or providing such information would potentially or actually compromise the equipmenttechnology. This point supposes that the agency has some control or inflience over the prosecutorial process. Where sach is not the case, or is limited so as to be inconsequential it is the FBI's expectation that the law enforement agency identify the applicable prosecuting agency, or agencies, for inchasion in this agreement.
9. A copy of any court order in any proceeding in which the
marty dreeting diselosure of mformation concemme the
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b7E -1 and any associated sofware, operating manuals, or related documenation (incuding its techmeal/engineering desonption(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient fime for the FBI to intervene to protect the equipmentechnology and imfomation from disclosme and potenial compromise. Ary such coum orders shall be directed to the attention of
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and

Operaional Technology Division
Fedemal Bureau of Investigation
Engineering Research Fachty
Building 27958 A. Pod B
Omatico. Vimoinia 22135
\(12 . \operatorname{lnc}\)
ill not publicize its acquisition or use of the or any of the capabilities afforded
by such equipment/techology to the phbic, other law enforcement agencies, or other government agencies, including, but not limited 10 , in any hews or press releases, b3 -1 interyiews, or direct or indirect statements to the media.
II. In the event that the \(\qquad\) receives a request pursume to the Fredom of Intomation Act ( 5 U.S.C. \(\$ 55\) ) or an cquivalent state or local law, the civil or criminal discovery process or othe judipial lemishtive or administravive nocess. to disclose information concerning the \(\square\) its associated software, operating mamals, and any reated doeunk matmon (nncmong its technicalenemincering deseription(s) and capabilities), the will immediately notify the PBI of ay such reguest felephonically and in wrimg in order to allow suffient time for the FBl to seek to prevent disclosure hrough approprate chanels. Notifation shall be directed to the atention of:

\section*{}


The \(\qquad\) acepiance of the above conditions shall be evidenced by the signames below of an amonzed represenative and wireless collection equipment operators of the \(\qquad\)


Acknowledged and agreed to this \(\qquad\) day of \(\qquad\) .2013.
\(\square\)
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U.S. Departwent of Justice

Federal Bareas of livestigation

Washington, 0, . \(20535-0001\)
February 5, 2015

\section*{RTTURN}

\section*{Re: Acquisition of Cell Site SimblatorPen Register Equipmen/Techuology} and Non-Disclosure Obligations

Dear \(\square\)
We have been notiffed of the \(\square\) request for
b3 -1
b7E-1 acquisition of certain cell site simulatorpen register equipment providing cellular device locating and idenifying capability. Consistent with the condition on the equipment authorization granted by the Federal Communications Commission, State and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement in order to acquire and use cell site simalator/pen register equipment/technology.

Law entorcement agencies rely on cellular device locating and identifying capability to help meet their law enforcement and public safety responsibilitics. Disclosure of certain information about cell site simulatorpen register equipment and techniques to the public, such information referred to by the Federal Government as Law Enforcement Sensitive (LES), would allow adversaries of law enforcement to diminish or thwart law chforcement efforts, thereby enabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its we may reveal more infomation than its apparent insignificance suggests because, much like a jigsaw puzzie, each detail may aid in piecing
together other bits of information even when the individual piece is not of obvous importance in itself. Thus, disclosure of what appears to be mocuous information about cell site simulators would provide adversaries with critical infomation about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumulate information and draw conclusions about the use and technical capabilitics of the technology. In tum, this would provide them the information necessary to develop defensive technology, modity their behaviors, and otherwise take countemeasmes designed to thwart the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equipncat, and tools used in criminal cases are often used in counterterrorism and conterintelligence investigations. Thas, compronise of the law enforcement commanity's investigational equipment and methods in a criminal case or a public records disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concens, the FBt has consistently assented that the details conceming the use implementation and application of cell site simulator technology is both law entorcement sensitive and protected homeland security information, and any disclosure could easily impair the use of this important investigative method. In recognition of this vunerabiny, the FBI has, as a matter of policy, protected this category of electronic surveilance equipment and technique from disclosure, directing its agents that while general facts that a survellance or location operation was conducted in connection with a specific case may be disclosed, neither details as to the equipment's operation nor the radecran involved may be disclosed. See United States v . Rignaiden. 845 F.Supp. 982 (D.Ariz. 2012); Umited States n. Garey, 2004 WL 2663023 (M.D.Ga Nov. 15, 2004).

As mentioned earlier, any information concerning cell site simalator equipment or techology (inchding, but not limited to infomation about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training materials conceming the capabilities or technology, or tradecraft required to operate the equipment) authonzed by the FBI to be provided to your agency is considered protected homeland security informations under the Homeland Scourity Act ("HSA"). Under 6 U.S.C. \& \(482(\mathrm{e})\), honeland security infomation "obtained by a State or local government from a Federal
agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requang such goverment to disclose information shall not apply to such information." The HSA defines "homeland security information" as infomation that relates to the ability to prevent, interdict, or disrupt terorist activity; infomation that would improve the identification or investigation of a suspected terrorist or terronst orgamization; or infomation that wonld improve the response to a terrorist act. See 6 U.S.C. \(\$ \$ 482(\mathrm{f})(\mathrm{D})(\mathrm{B})\)-(D). Cell site simulator technology meets all shree critcria. Accordingly, by signing this agreenment, your agency agrees and understands that disclosure of protected homeland security information is specifically prohibited under Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United States
 principle, Federal law preempts State law where Congress has said so explicity).

Finally, by entexing into this agreement, you acknowledge that you waderstand cell site simulator techology is a regulated defense article on the Unted States Muntions List ("USML"). See 22 C.F.R \(\$ 121.1\) (b). As such, technical details conceming this technology are subject to the non-disclosure provisions of the Intemational Traffe In Ams Regulations ("TAR"), 22 CF.R., Parts 120-130. The ITAR implenents the Ams Export Control Act, 22 U.S.C. \(\$ 2778\), and Executive Order 13,637 , which control the export and import of defenserelated articles and services listed on the USML. Because this equipment is explicity govemed by the TAR, 22 CFR. § 123.1 requires anyone to obtain a license from the Deparment of State prior to making an export. Notably, technical information does not have to leave the borders of the United States to be deemed an export subject to the regulation. See 22 C.FR. \& 120.17 (defining an export as the disclosure of technical data about a defense article to a foreign national, even while located in the United States). Consequently, if a State or local government disseninates any part of the techaical information to an entity knowing that the entity intends to or is lkely to publish or further disseminate the information in some fashon that would make it accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. cifizens present at its offices, this could constitute a violation of the Ams Control Export Act. Unauthonized disclosure of ITAR-controlled information is a felony punishable by up to 20 years imprisomment and up to \(\$ 1\) million per occurrence. See 22 C.F.R., Part 127.

Accordingly, to preserve the contimued efficacy of the capability for the Law Enforcement Community, the \(\square\) agree to the following conditions in connection with the acquisition and use of the cell site simulator/pen register equipment/technology:
1. The signing State or municipal govemmens official affirms that he or she has the authority to lawilly obligate his or her State or municipality to the conditions of this agrement. Moreover, the official affims that appropriate legal counsel has determined the nondisclosure obligations herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the State or municipality will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing law enforcement agency official affirms that he or she has the authonty to lawfilly obligate his or her agency and its personnel to the conditions of this agreement. Moreover, the official affims that the law enforcement agency will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
3. The signing law enforcenent agency official affirms that the appropriate chief prosecuting official(s) representing the jurisoliction(s) of possible use of the agency's celluar device identifying and locating capability was (were) notified of the law enforcement agency"s intended acquisition of the equipment/technology and he or she (they) indicated an understanding that use of the capability in a specific prosecutorial jurisdiction by the law enforcement agency is conditioned on the chicf prosecuing officials sepatate written non-disclosure agreement with the FBI (notfication and request for the separate agreement to be made as indicated in condition 10. below). Futhermore, the law enforcement agency official agrees that, after cxhaustion of all other lawful means, including implementing advice and assistance from the FBI, the law enforcement agency will, at the request of the FBr , seek dismissal of the case with the prosecutorial jurisdiotion in lien of using or providing, or allowing others to use or
provide, any sensitive information concerning the cell site simalatorpen register equipment/technology in criminal litigation.
4. The signing law enforcement agency official affirms that the law enforcement agency has statutory authority to lawfulfy employ this technology and will do so only in support of public safety operations or criminal investigations within State or municipal jurisdictions that are also party to appropriate, related nondisclosure agreements whth the FBI. Moreover, the law enforcement agency assumes responsibility for operating the equipmenttechnology in accordance with State and Federal law and regulation and accepts sole hability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the acquisition of the equipment/echnology,
5. The signing law enforcement agency official affirms that he or she understands and acknowledges that this equipment, under Federal law, finctions as a pen register device as defmed in 18 U.S.C. 3127 (3), and that 18 U.S.C. 3121 (a) prohibits any person, including law enforcement, from operating a pen register device without frst obtaining a court onter, or having emergency pen register authority under either State or Federal law, as applicable. The signing law enforcement agency official agrees that he or she will not permit the operation of the device without having a court-issued pen register order or emergency pen register authority as outined in Federal or State law.
6. The signing law entorcement agency official affrms that he or she understands that he or she is prohibited by Federal law from intercepting the content of any communications with a pen register device, and that he or she must use technology reasonably available to the agency to restrict the cquipment to recording or decoding electronic or other impulse to the dialing, routing, addressing and signaling infornation utilized in the processing and transmitting of wire or electronic commumications. See 18 U.S.C. 3121 (c).
7. The signing law enforcement agency official affirms that operators of the equipment meet the operator training standards, idenified separately by the FBI, before operating the equipment, are certified by their agency to conduct operations, are notified of the
conditions of this agrement, and are legally bound to this agrecment by virtue of their cmployment or through an internal written contract with the agency or State or municipal govenment.
8. The State or muxicipal govermment andor law enforement agency may, without first obtaining prior approval from the FBI, confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: I) the agency has cell site simulator/pen register equipment (without disclosing make and model) that provides the capability to locate or identisy a cellular device, 2) a description of the legal authority relied upon for using the capability, 3 ) a description not containing LES intormation (see conditions 9. and 10. below) of agency policies or practices that ensure legal comphance and protection of third party privacy rights, 4) the fact that the capabikity might cause temporary disruption of service for cerain cellitar devices in the operating area, 5) that the equipment was used to detemine general location information about the target cellular device, and 6) that the capability is a sensitive investigative technique so furher details are protected and will not be publicly disclosed or confirmed. Note: The preceding provisions shall be narrowly and strictly construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.
9. Except for the strictly constructed permission in condition 8 . above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civi litgation discovery considerations, or public records access request processing, in which the exercise of dwe diligence to protect LES information and timely notice to the FBI pursuant to this agreement is presumed, the State or municipal govermment and law enforcement agency will not, absent writen FBl approval, distribute, disseminate, disclose, or otherwise confirm any LES information, as determined by the FBI, concerning the cell site simulator/pen register equipment/echnology to the public, including to any non-law enforcement individuals or agencies not oherwise par of this agreement. These restrictions include, but are not limited to, tradecraft, techmical details, functional limitations or valnerabilities, manufacturer, model name, hardware, sofware,
operating manuals, related technical documentation (including technical/engineering descriptions and capabilisies), line ftem costs, or related entries in acquisition, fumding, grant, or procurement docxments, such documents often being susceptible to pubic disclosure by State or municipal hnancial authorities.
10. The signing State or municipal govermment official and the signing law enforcement agency official affirm on behalf of their respective organizations that questions about or deteminations of what constitutes LES or protected homeland security information will be deferred to the FBI. It the State or municipal govemment or law enforcement agency receives a request or order to disclose any infomation abont the cell site simulator equipment/technology, or leams of such anticipated activity, an appropriate offeial will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipmen/technology.

All notifications or inquines regarding this agreement and the subject capability shall be directed to the attention of:

11. The signing law enforcement official understands and acknowledges that his or her agency's approval to acquire and use the cell site simulator is expressly conditioned on execution of and adrerence to this non-diselosure agreement with the FBI. In the event that the FBl determines the agency is faling to abide by the conditions in this agreement,
the FBI may notify the vendonmanafacturer to discontimue services for, or disable, the agency's cell site simuator/pen register equipment.
12. Once signed, the conditions of this agreement remain in effect until rescinded in writing by the FBl, except that the agreement must be re-accomplished ammally. If the State or muncipal government, law eaforcement agency, and prosecutor's office do not an agree to the annual renewal, or the amual agreement period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agreement, the FBI reserves the right to rescind its endorsement of the law enforcement agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 11. above.
13. The signing State or municipal government official and the signing law enforcement agency official affim that any suscessors to their positions will be notifed about this agrement and of the requirement to adhere to the conditions herein to ensure the agency's contimued use of cell site simulator/pen register equipment/technology. Similary, the signing law enforcement agency offeral affirms thas any successor to the position of the chief prosecting official will be wotified of the separate prosecutorial non-disclosure agreement and of the requirement to adhere to that agreemens in order to ensure the law enforcement agency's continued use of cell site simulator/pen register equipment/techology. In any instance of succession in this context, the law enforcement agency official will notify the FBI as modicated in conditon 10. above.

The acceptance of the above conditions shall be evidenced by the signatures below of authorized representatives of the \(\square\)

ba -1
be -1
b7C -1
b7E -1

Federal Bureau of Investigation

Acknowledged and agreed to this \(\qquad\) day of due in one year.


\title{
U.S. Beparmene of sustice \\ Federal Bureau of Investigation
}

Washingtom, DC \(20535-601\)
February 5, 2015

b3 -1

Re: Acquisition of Cell Site Simulator/Pen Register Equipment/Technology and Non-Disclosure Obligations

Dear
We have been motitied of the \(\square\) request for acquisition of certain cell site simulaton/pen register equipment providing cellalar device locating and identifying capability. Consistent with the conditon on the equipment authorization granted by the Federal Communcations Commission, State and local haw enforcenent agencies must coordinate with the Federal Bureas of Investigation (FBI) to complete this non-disclosure agreement in order to acquire and use cell site simbator/pen register equipmenttechnology.

Law enforcemen agencies rely on cellular device locating and identifying capability to help meet their law enforcement and public safety responsbilities. Disclosure of certain information about cell site simulatorpen register equpment and techmiges to the public, such information referred to by the Federal Government as Law Enforcement Sensitive (LES), would allow adversanes of law enforcement to diminish or thwart law enforcement efforts, thereby cnabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its use may reveal more information than its apparent insignificance suggests because, much like a jigsaw puzzle, each detall may aid in piecing together other bits of infomation even when the individual piece is not of obvious importance in
itself. Thus, disclosure of what appears to be imocuous information about cell site simulators would provide adversaries with critical information about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumblate information and draw conclusions about the use and technical capabilities of the technology. In hum, this would provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take conntermeasures designed to thwart the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are offen used in countexterrorism and conntermelligence investigations. Thus, compromise of the law enforcement community's investigational equipment and methods in a criminal case or a public records disclosure cond have a significant detrimental impact on the national security of the United States.

Due to these concerns, the FBI has consistently asserted that the details concerning the use, implementation and application of cell site simulator technology is both law enforcenent sensitive and protected homeland security information, and any disclosure could easily impair the use of this important investigative method. In recognition of this vulnerability, the FBI has, as a matter of policy, protected this category of electronic suryeillance equipnent and technique from disclosure, directing its agents that while general facts that a survellance or location operation was conducted in connection with a specific case may be diselosed, neither detalls as to the equipment's operation nor the tradecrat imvolved may be disclosed. See United States y Rigmaiden, 845 F.Supp. 982 (D.Ariz. 2012); United States w: Garey, 2004 WL 2663023 (M.D.Ga. Nov. 15, 2004),

As mentioned earlice, any mformation conceming coll site simulator equipnent or techology (including, but not himited to information about the operation of the equipnent or technology itself, Imitations or capabilities of the equipment or technology, any training materials concerning the capabilities or technology, or tradecrat reguired to operate the equipment) anthorized by the FBI to be provided to a state law enforcement agency is considered protected honeland security infomation under the Hormeland Security Act ("HSA"). Under 6 U.S.C. 8482 (e), homeland security information "obtained by a State or local govemment from a Federal agency moder this section shall remain under the control of the Federal agency, and a

State or local law authorizing or requiring such goverment to disclose information shall not apply to such information." The HSA delines "homeland security information" as information that relates to the ability to prevent, interdict, or disrupt terrorist activity, information that would improve the identifcation or investigation of a suspected terronst or terrorist organization; or information that would improve the response to a terorist act. See 6 U.S.C. \(\$ 8482(1)(1)(B)\) (D). Cell site simblator technology meets all three criteria. Accordingly, by signing this agreemem, your agency agrees and understands that disclosure of protected homeland security information is specifically prohibited under Federal law, and that this law expressly preempts state and local disclosure laws under the Suprenacy Clause (Article VI, clause 2) of the United Stater
 principle, Federal law preempts State law where Congress has said so explicity).

Finally, by entering into this agreement, you acknowiedge that you understand cell site simulator techology is a regulated defense article on the United States Munitions List (USML"). See 22 C.F.R. \(\$ 121.1\) (b). As such, technical details conceming this techology are subject to the non-disclosure provisions of the International Traffic In Arms Regulations (TAR"), 22 CPR, Parts 120-130. The ITAR implements the Arms Export Control Act, 22 U.S.C. § 2778, and Executive Order 13.637, which control the export and import of defenserelated articles and services listed on the USML. Because this equipmen is exphitly govened by the ITAR, 22 C.F.R. \& 123.1 requires anyone to obtain a hcense from the Department of State prior to making an expon. Notably, techical information does not have to leave the borders of the United States to be demed an export subject to the regulation. See 22 CFR. \(\$ 120.17\) (defining an export as the discosure of technical data about a defense article to a foreign national, even while located in the United States). Consequenty, if a State or local govemment disseminates any part of the technical infomation to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashon that would make it accessible to non-U.S. citizens, or that the requesting entity cmploys or has any non-U.S. citizans present at its offces, this could constute a violation of the Amm Control Export Act. Unauthorized disclosure of TTAR-controlled information is a felony puaishable by up to 20 years imprisomment and up to \(\$ 1\) million per occorrence. See 22 C.F.R. Part 127.

Accordingly, to preserve the continued efficacy of the capability for the Law Enforcement Communty, the \(\square\) agrees to the following conditions in connection with the \(\square\) acquisition and use of the cell site simulator/pen register equipmen/technology:
1. The signing chicf prosecuting official (CPO) affirms that he or she has the axthonity to lawfully obigate his or her agency to the conditions of this agreement. Moreover, the official affirms that appropriate legal comsel has detemined the nondisclosare obligations hercin are defensible under State law, as possibly angmented by Fedexal statutory protections, such as might be necessary for public records access requests, and that the agency will itself pertom due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing \(C P O\) affims that the above-named law enforcement agency's acquisition and use of cellular device identifying and locating capability is conditioned on this separate written non-disclosure agreement with the FBI. Furthermore, the CPO agrees that, after exhasstion of all oher lawful means, inclading implementing advice and assistance from the FBI, the prosecuting agency will, at the request of the FBI , seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any sensitive information conceming the cell site simulatorpen register equimenttechmology in criminal litigation.
3. The signing CPO affirms that the above-named law enforcement agency has statutory authority to lawfuly employ this techology in support of public safety operations or criminal investigations.
4. The signing CPO affims that he or she wnderstands and acknowledges that this equipment, under Federal Gaw, functions as a pen register device as defined in 18 U.S.C. \$3127(3), and that 18 U.S.C. 3121 (a) prohbits any person, including law enforcement, from operating a pen register device without first obaining a court order, or having emergency pen register authonty mder either State or Federal law, as appicable.
5. The CPO's agency may, without first obtaining prior approval from the FBI, confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the above-named law enforcenent agency has cell site simulatoripen register equipment (without disclosing make and model) that provides the capability to locate or identily a cellalar device, 2 ) a description of the legal authority relied won for asing the capability, 3) a description not containing LES information (see conditions 6. and 7. below) of the abovenamed law enforcement agency's policies or practices that casure legal compliance and protection of third pary privacy rights, 4) the fact that the capability migh cause temporary distuption of service for certain cellular devices in the operating area, 5) that the equipment was used to detemine general location infomation about the target cellslar device, and 6) that the capability is a sensitive investigative techmique so farther details ate protected and will not be publicly disclosed or confirned. Note: The preceding provisions shall be narrowly and stricily construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior io disclosure.
6. Except for the strictly constructed pemission in condition 5. above or for necessary deliberations between relevant officials necessary for coordination of thes nondisclosure agreement, crininal or civil litigation discovery considerations, or publie records access request processing, in which the exercise of due difgence to protect LES information and timely notice to the FBI pursuan to this agreement is presumed, the prosecuting agency will not, absem witten FBI approval, distribute, disseminate, disclose, or otherwise confirm ayy LES information, as detemined by the FBF, conceming the cell site simulatorpen register equipment/echnology to the public, including to any non-law enforcement individuals or agencies not otherwise part of this agreement. These restrictions inchede, bus are not limited to, tradecraft, techmical details, functional limitations or vulnerabilities, manufacturer, model name, hardware, sofware, operating manuals, related technical documentation (including technical/engineering descriptions and capabilities), he item cosis, or related entries in acquisition, funding, grant, or
procurement documents, such documents often beng susceptible to public disclosure by State or municipal fnancial authorities.
7. The signing CPO affrms on behat of her or his agency that questions about or detemmations of what constitutes LES or protected homeland security information will be deferred to the FBI. If the prosecuting agency receives a request or order to disclose any information abont the cell site simulator equipment/technology, or leams of such anticipated activity, an appropriate official will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/technology.

All notifications or inquiries regarding this agreement and the subject capability shall be directed to the attention of:


Operational Technology Division
Fedcral Bureau of Investigation
b6 -1
b7c -1
b7E -2,3

Engineering Research Facility
Building 27958A
Quantico, Virginia 22135
Telephone
8. The signing CPO understands and acknowledges that the above-named law enforcement agency's approval to acquire and use the cell site simulator is expressly conditioned on all relevant parties" excention of and adherence to this non-disclosure agreenent with the FBI. In the event that the FBI detemines the any party is faling to abide by the conditions in this agreenent, the FBI may notify the vendormanufacturer to discontinue services for, or disable, the agency's cell site simulator/pen register equipment.
9. Once signed, the conditions of this agreement remain in effect until rescinded in writing by the FBI, except that the agreement must be re-accomplished annually, If the State or
munipgal government, law enforcement agency, and prosecutor's office do not all agree to the annual renewal, or the annual agreement period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agreement, the FBI reserves the right to rescind its endorsement of the law enforcement agency's acquisition and we of the equipment and to take all lawful action as indicated in condition 8 . above.
10. The CPO affirms that any successor to her or his position will be notified about this agreement and of the requirement to adhere to the conditions herein to ensure the abovenamed law enforcement agency's continued use of cell site simulator/pen register equipment technology. In any instance of succession in this context, the CPO "s agency will notify the FBI as indicated in condition 7 . above.

The acceptance of the above conditions shall be evidenced by the signature below of the authorized representative of the


Acknowledged and agreed to this \(\langle\) day of \(\qquad\) 2015. Renewal is due in one year.

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\title{

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\author{
U.S. Department of Jusuree \\ Federal Qureau of Investigation
}

Whatington DC. \(20535-600:\)

May 2, 2014

\begin{abstract}
\(\square\)

\section*{Re: Acquisition of Wireless Coliection Equipment/Techoology and NonDisclosure Obligations}
\end{abstract}

\begin{abstract}
Lutu The information in this docwnent is the property of the Federat Bureat of




 posting the nyomation marked LES on a webute on on thelassifed netwonk
\end{abstract}
\(\square\)
request for acquisition of certain wireless collection equpmentfechnology manutachured by Consistent with the conditions on the equipment authorization granted to by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FB) to complete this non-disclosure agrement prior to the acquistion and use of the equipmenutechnology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipmenttechnology to conduct lawhully-authorized electronic surveillance. Disclosing the existence of and the capabilites provided by such equipmenttechnology to the public would reveal sensitive technological capabilites possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/techology is used to employ comtermeasures to avoid detection by law enforcement. This would not only potentably endanger the thes and physical safety of law enforcement officers and other
individuals, but also adversely impaet criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other crimmal activiy because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipmenttechnology contimes to be avalable for use by the law enforcement community, the equipment/techology and any infomation related to its functions, operation, and use shall be protected from potental compromise by precluding disclosure of this information to the pubhic in any manner including bur not limited to: in press releases, in court documents durins indicial hearinos or during other pablic forms or proceedings. Accordingly, the agrees to the following conditions in comection with its acquisition and use of the
1. By entering into this agreemen, the \(\square\) firms that it has statutory atthority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations.
2. The \(\square\) assumes responsiblity for operating the equipmentitechology in accordance wift Federal law and regulation and accepts sole hability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the sale of the equipmenttechnology.
3. The will ensure that operators of the equipment have met the operator training standards identified by the FBl and are certified to conduct operations.
4. The \(\square\) will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
5. The will not distribute, disseminate, or oherwise disclose any information conceming the wireless collection equipment/technology or any software, operating manals, or related technical documentation (including its technica/engineering description(s) and capabilities) to the public, including to any nonlaw enforcement individtuls or agencies.
6. The \(\qquad\) will not distribute, disseminate, or otherwise disclose any infomation conceming the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technica//engineering description(s) and capabilitics) provided to it to any other law enforcenent or government agency without the prior written approval of the FBl. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipmenttechnology or any software, manuals, or related technical documentation related to such equipment/echnology, all materials shall be marked "Law Enforcement Sensitive, For Otficial Use Only - Not to be Bisclosed Outside of the

\section*{}
7. Th \(\square\) shall not, in any civil or criminal proceeding, use
or provide any momation conceming the documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-tral matters, in search warrants and related affidavits, in discovery, in response to coum ordered disclosure, in other affidavits, in grand juy hearings, in the Stete's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial without the prior written approval of the FBI. If the
\(\qquad\) leams that a District Aftomey, prosecutor, or a court is considering or intends to use or provide any information concerning the wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineermg description(s) and capabilities) beyond the evidentiary results obtamed through the use of the equipmen/technology in a manner that will cause lav enforcement sensitive infomation relating to the technology to be made known to the public, the \(\square\) will immediately notify the FBH in order to allow sufficient time for the हBI to intervene to protect the equipment/technology and infomation from disclosure and potential compronise.

Nofification shall be directed to the attention of:

b6 -1
Engineering Research Facility
b7c -1
Building 27958A, PodA
b7E -2,3
Muantico Vimigia 22135
and


Federal Burcau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135
8. In addition, the \(\square\) will, at the request of the FBI, seek dismissal of the case in lien of using or providing, or allowing others to use or provide, any infomation concerning the \(\square\) its associated software, operating manuals, and any relared accumenmaon beyond the evidentiary results obtained through the use of the equipmenttechnology), if using or providing such information would potentally or actually compromise the equipment technology. This point supposes that the agency has some control or influcnce over the prosecusorial process. Where such is not the case, or is linited so as to be inconsequential, it is the FBY's expectation that the law enforcement


\section*{UNCLASSTFED/AAW ENHORCENENT GROVGTME}
agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.
9. A copy of any court oder in any proceeding in which tha
\(\square\) is a party directing disclosure of information conceming the \(\square\) and any associated software, operating manuls, or related documentation (incuding its lechnical/engincering description(s) and capabilities) will immediately be provided to the FBI in order to allow suffecmet time for the FBI to intervene to protect the equipment/technology and infomation from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

Federal Bureau of investigation
Engineering Research Facility
b6 -1
Boilding 27958A, PodA
Onantico Virginja 22135
b7C -1
b7E -2,3


Operational Technology Division
Federal Burean of Investigation
Engineering Research Facility
Building 27958A, Pod 8
Cuantico Virginia 22135
10. The \(\square\) will not publicize its acquisition or use of the
\(\square\) equipmenttechnology or any of the capablities afforded by such eqummentrechnology to the public, other law enforcement agencies, or other goverment agencies, including, but not limited to, in any nows or press releases, interviews, or direct or indirect statemens to the media.
11. In the event that the receives a request pursuant to the Freedom of hafomation Act (5 D.S.C. S52) or an equivalent state or local law, the civil or criminal discovery process, or otier judichal legislative or administrative orocess, to disclose information concerning the its associated sotware, operating mamals, and any related documentathon (noluding its technical/engineering description(s) and capabilities), the will immedately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the MBI to seek to prevent disclosure through appropriate chamals. Notification shall be directed to the attention of:


The by the stgnatures belok of an abmonzed renresentave and wireless collection equipment operators of the

\section*{Sincerely,}
\(\square\)

\[
\begin{array}{ll}
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\text { b6 } & -2 \\
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\text { b7E } & -1
\end{array}
\]

\author{
BIS. Departanent of fustice \\ Federal Burata of hyessigation
}

Washington, DC. 2053-00091
June 1, 2011


As you are aware, law enforcement agencies increasingly rely on wireless collection equipmenttechology to conduct lawfully-authonized electronic survellance. Disclosing the existence of, and the capabilities provided by, such equipment/technology to the public would reveal sensivive technological capabihties possessed by the lav enforcement community and may allow individuals who are the subject of mestigation wherein this equipment/techology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentialy endanger the lives and physical safety of law enforcement officers and other individuals, but slso advessely impact criminal and national security investigations. That is, disclosure of this infomation could result in the FBl's inability to protect the public from terrorism and other criminal activity because, through pablie disclosures, this techoology has been rendered essentaily useless for fature investigations. In order to ensure that such wreless collection equipmenttechnology continues to be avalable for ase by the law enforcement community, the equpmenttechnology and any tnfomation related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this infomation to the public in any mamer including by not limited to: in press releases, in court docameats, during udicial hearings, or during other public forums or proceedings. Accordingly, the
agrees to the following conditions in comection withits purchase and use of the
1. The will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
2. The
 will coordinate with the FBl in advance of its use of the wreless collection equyment technology to ensure de-confiction of respective missions.
3. The \(\square\) will not distribute, disseminate, or otherwise disclose any infomation conceming the wireless collection equipmenttechnology or any sofware, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the pabic, including to any non-law enforcement individuals or agencics.
4. The \(\qquad\) will not distribute, disseminate, or otherwise disclose any fiformation conceming the wireless collection equipmenttechnology or any soffwate, operating manuals, or related fechnical documentation (including its techmeal/enginecring descriptions) and capabinties) provided to it any ofher law enforcement or government agency without the prior written approval of the FBX. Prior to any approved distribution, dissemination, or comparable disclosure of any information conceming the wireless collection equipmenttechnology or any software, manaals, or related technical documentation related to such equipment/techology, all materials shall be marked "Law Enforcement Sensitive. For Official Use Only - Not to be Disclosed Outside of the
5. The \(\square\) shall not in anv civil or criminal proceeding, use or provide any information concerning the \(\quad\) wireless collection cquipment/tchnology, its associated software, operating manuais, and any related documentation (inchding its techmeal/engineering description(s) and capabilities) beyond the evidentiary resuls obtained hrough the use of the equipmentechnology including, but not limited to, during pre-trial natters, in search warants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in graxd jury hearings, in the State's case-in-chief, robuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the \(\square\) leams that a District Atroney, prosecutor, or a comm ic convidering or intends to use or provide any information concerning the vireless collection equipnenttechnology, its associated software, operating manuas, and any related documentation (including its techniealengineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipmenttechnology in a manner that will cause law enforcement sensitive infomation relating to the technology to be made known to the public, the
\(\square\) will immediately notify the FBI in order to allow sufficient time for the FBI to intervenc to protect the equipment/echnology and infomation from disclosure and potential compromise.

Notification shall be directed to the attention of:


Federal Bureau of havestigation
Engineering Research Facility
Bulding 27958A, Pod A

\section*{Quantico, Virginia 22135}
and
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\(\square\)
b7E -1,2

Operational Technology Division
Federal Burean of Investigation
Engineering Research Facility
Building 27958A, Pod B
Ouantico. Virginia 22135

In addition, the \(\qquad\) will, at the request of the FBI, seek dismissal of the case in heu of using or providme, or allowing others to use or provide, any information conceming the its associated software, operating mamals, and any reiated documentanon beyond the cyidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actualy compromise the cquipmentechnology.
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6. A copy of any court order in any proceeding in which the
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\] \(\square\) s a varty directing disclosure of information conceming the and any associated software, operating manuals, or related documentation (inchoing its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipmentitechology and information from disclosure and potential compronise. Any such cout orders shall be directed to the attention of:

and

7. The
 th \(\square\) or any of the capabilities afforded by such
b3 -1
b7E -1 equipment technology to the public, other law enforcement agencies, or other govermment agencies, inchading, bus not imited to, in any news or press releases, interviews, or direct or indirect statements to the media.


\section*{}
8. Fin the event that the \(\qquad\) receives a request pursuant to the Freedom of Information Act (5 U.S.C. \(\$ 552\) ) or an equivalent state or local law, the civil or criminal discovery process, or other judical \}egishative or administrative process, to disclose infomation concerning the
]: its associated sofware, operating mamuls, and any related docamentation Gncludias its technicalensineering description(s) and capabilities, the \(\qquad\) will immediately notify the FBl of any sach request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:
\(\square\)

Federal Bureau of Investigation
and


Federal Bureas of Investigation
Enginecring Research Facility
Building 27958A, Pod B
Ouantico. Virginia 22135
The
shall be evidenced by the sknature below of an athorized representative of the \(\square\)

Sincerely,
 Federal Bureaw of Investigation


UNCLASSIFTED/EOHO/LAW ENFORCE

UNCLASSIFED DOU/LAW ENFORCEM S IVIVEINOFORN


\author{
U.S. Department of Justice \\ Federal Burcau of Investigation
}

Washingom, DC. 205350001
Tune 1, 2011

b3 -1
b6 -2
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Re: Purchase Wireless Collection Equipment/Technology and Non-Disclosure Obligations
\begin{tabular}{|c|c|}
\hline \multirow[t]{2}{*}{Dear} & \\
\hline & \multirow[t]{2}{*}{We have been advised by Lreast to purchase certain wireless collection equipment/echnology manafactured} \\
\hline & \\
\hline b) & \multirow[t]{2}{*}{Consistent with the conditions on the equipment authonzation granted to the Federal Conmunications Commission (ECC), state and local law} \\
\hline & \\
\hline enfor & ment agences must coordinate with the Federal Bureau of Investigation (FBl) to \\
\hline compl & te this non-disclosure agrecment prior to the acquisition and use of the \\
\hline
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S. The will ensure that operators of the equipment have met the operator maining standards identified by the FBI and are certifed to condact operations.
2. The \(\qquad\) will coordinate with the FBI in advance of its use of the wreless collection equipment/technology to ensure de-confliction of respective missions.
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b3 -1
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3. The otherwise disclose any infomation concerning the wireless collecion egupnenttechnology or any sofware, operating manuals, or related technical documentation (induding its technical/engineering description(s) and capabiities) to the public, including to any non-law enforcenent individuals or agencies.
4. The \(\square\) will not distribute, disseminate, or otherwise disclose any infommation conceming the wireless colfection equipmenttechnology or any software, operating mansals, or related technical documentation (Gncluding its technical/enginecring description(s) and capabibitics) provided to it any other law enforcement or govemmen agency without the prior written approval of the FBL. Prior to any approved distribution, dissemination, or conaparable disclosure of any infonnation concerning the wireless collection equipment/echnology or any software, manuals, or related technical documentation related to such equipmenifecmology, all materials shall be matked "Law Enforcement Sensitive. For Official Use Only - Not to be Disclosed Outside of the \(\qquad\)
5. The
 shall wot in anv civil or crimisal proceeding use or provide any infomation concerning the procecding. use or provide any in its associated software, operating manvals, and any related docamentation (including its technical/engineering description(s) and capabilitics) beyond the evidentiary resulks obtained through the use of the equipmenttechology including, but not limised to, during pre-trial matters, in search warrants and related affidavis, in discovery, in response to cout ordered disclosure, in other afidavits, in grand jury hearings, in the State's case-in-chief, rebutal, or on appeal, or in testimony in anv phase of civil or criminal trial, without he prior writen approval of the FBI. If the leams that a District Attomey, prosecutor, or a court is consjering or miends to use or provide my information conceming the wiveless collection equipment/technology, its associaked sofware, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the ase of the equipment/techoology in a manner that will cause law enforcement sensitive, information relating to the sechology to be made known to the public, the
I. will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipmentlechnology and infomation from disclosure and potential compromise.

Notifcation shall be directed to the attention of:


Dramico Viesima 22135
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\begin{aligned}
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\]
and


Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Ouantico. Vixemia 22135

In addition, the \(\qquad\) will, at the reguest of the FBI, seek dismissal of the case in heu of asing or providing, or allowing others to use or provide, any infomation conceming the \(\qquad\) docmmentation (beyond the evidentiary results obtained through the use of the equipmenttechnology), if using or providing such information would poientially or actually compromise the equipmeni/technology.
b3 -1
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6. A cony of any comt order in any proceeding in which the \(\square\) is a narty dinecting disclosure of information concerning thie \(\square\) related documentation (including its techmical/engineering description(s) and capabilities) will mmediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipmenttechnology and infomation from disclosure and potential compromise. Any such court orders shall be directed to the attention of:


Federal Burcan of Thyestrgation
Engineering Rescarch Facility
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Building 27958 A . Pod A
Onanico. Vimina 22135
and


Federal Burean of Investigation
Engineering Research Facility
Building 27958A, Pod B
Munsico Vircipia 22135
7. The Wibl not publicize its purchase or use of equnnentitechmology wo preay of the capabilities afforded by such goverment agencies, including, but not hmited to, in any news or press releases, interviews, or direct or indirect statements to the media.

\section*{UNCLASSIFIEDIEOUOIIAW EREXTM}
8. In the event that the \(\square\) receives a request pursuant to the Freedom of Infomation Act (S U.S.C. \(\$ 552\) ) or an equivalent state or local law, the civil or crimmal discovery process, or other judicial, legisiative, or administrative process to disclose info
its associated sofware, operating manuals, and any related documentation oncluding its technical/ensincering description(s) and
b3 -1
b7E -1 capabilities), the \(\qquad\) will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate chamels. Notification shall be directed to the attention of:


Engineering Research Facility
Building 27958A, Pod A b6 -1
Ouantico Vixcinia 22135
b7c -1
b7E -2,3
and

Operamonar Tecmology Division
Federai Bureau of Investigation
Engineering Research Facility
Bulding 27958A, Pod B
Ouantico. Virgima 22135

The \(\square\) acceptance of the above conditions b3 -1 shal be evidenced by the signature below of an anthonzed representative of the \(\quad\) b7e -1

Sincerely,


Operational Technology Division Federal Bureau of Investigation
b3 -1
b6 -1,2
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b7E -1

Acknowledged and agreed to this...
\(\square\)
UNCLASSIFIED/EQHOLAW BNFORCETS SETVE/NOFORN

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\title{

}

\author{
U.S. Department of bustice \\ Federal Bureau of Investigation
}

Wasingtomb D, 20535-0001
June 1, 2011

b3 -1
b6 -2
b7c -2
b7E -1

Re: Purchase Wireless Collection EquipmentTechnology and Non-Disclosure Obligations

b3 -1
b7E -1

We have been advised by \(\square\) bs the feduest to purchase certain wireless collection equipment/echmology manufactured by Consistent with the conditions on the equipnent authorzation granted to enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipnent/techology authorzed by the FCC authonization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipmenttechnology to conduct lawfully-authonzed electronic survellance. Disclosing the existence of and the capabilities provided by, such equipment/echnology to the public would reveal sensitive techological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipmenttechology is used to caploy countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law cnforcenent officers and other individuals, but also adversely impact criminal and national security nuvestigations. That is, disclosure of this infomation conld resull in the FBT's inability to protect the public frons terorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be avallable for use by the law enforcement community, the equipmenttechology and any information related to its functions, operation, and use shall be protected from potential compromise by prectading disclosure of this infomation to the public in any manner including by not limited to: in press releases, in court documents, during judicial hearings, or during other public formons or proceedings. Accordingly, the arees to the following conditions in connction with its purchase and use of the
1. The \(\square\) will ensure that operators of the equipment have met the operator tamng ssandards identified by the FBI and are cersified to conduct operations.
2. Th will coordinate with the FBl in advance of its use of the wireless collection equipmenttechnology to ensure de-confiction of respective missions.
3. The \(\square\) IIl not distribute, disseminate, or otherwise disclose any infomation conceming the wireless collection equipmenttechology or any sofware, operating manwals, or related techmical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
4. The otherwise equipment/technology or any software operating manuals, or related technical docamentation (including its technical/engineering description(s) and capabilties) provided to it any other law enforement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any infonmation conceming the wireless collection equimment/technology or any software, manuab, or related technical docamentation related to such equipment technology, all materals shall be maked "Law Enforcement Sensitive, For Officialluse Only - Not to be Disclosed Outside of the
5. The \(\square\) shall sot, in any civil or criminal proceding, use or provide any infomation concerning the
. its associated software, operating manuals, and any reated documentation (neluding its technical/engineering description(s) and capabiltios) beyond the evidentiary results obtained through the use of the equipment/technology inchding, but not limited to, during pre-tial maters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, wihout the prior writen approval of the FBI. If the leams that a District Attomey, prosecutor, or a comit is comsidering on intends to use or brovide any information concerning the \(\square\) its associated software, operating manals, and any related documentation (moluding its technicalengineemg description(s) and capabilities) beyond the evidentiary results obtained throngh the use of the equipment/technology in a manner that will cause law enforcemeni sensitive infomation relating to the technology to be made known to the public, the will inmediately notify the FBI in order to allow sutficienk time for the EBI to zntervene to protect the equipment/technology and information from disclosure and potential compromise.

Notification shall be directed to the attention of:

b6 -1
b7c -1

Federal Bureau of Investigation
Engineering Research Fachity
Building 27958A, Pod A

and
b6 -1
b7C -1
b7E -2,3
Operational Techology Division Federal Burean of Investigation Engineering Research Facility Building 27958A, Pod B
Quantico Virciviss 22135

In addition, the \(\qquad\) will, at the request of the FBI, seek dismissal of the case in liea of using ar movidine ar allowing athers to use or provide, any information concerning the
its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the ase of the equipmenthecmology), if using or providing such information would potentially or actually compromise the equipment/technology.
6. A copy of any court order in any proceeding in which the







b6 -1
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7. The
 will not publicize its purchase or use of
th Dr any of the capabilities afforded by such

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8. In the event that the \(\square\) receives a request pursuant to the Freedom of Information Act (5 U.S.C. \(\$ 552\) ) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative arocess to disclose zufomation conceming the \(\square\) its associated soffware, operating manmals, and any related documontakion Gocluding its techaical/engineering description(s) and capabilities), the \(\qquad\) will immediately notify the FBI of any such reguest tolephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure tirough appropriate chamels. Notification shall be directed to the attention of:


Federal Bureau of mvestigatron
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Engmeering Rescarch Facility b7c -1
Building 27958A, PodA
Cuantica Viroinga 22135
and


Federal Burcau of Investigation
Engineering Research Eacility
Building 27958A, Pod B
Quantico. Virgimia 22135

b3 -1
Th acceptance of the above conditions
b7E -1
shan be evidenced by the signature below of an authonzed representative of the


Sincerely,



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\title{
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}

\author{
US. Department of Sustice \\ Federal Bureau of huvestigaton
}

Washingwon, DC. 205350001
June 1, 2011


Re. Purchase Wireless Colloction EquipnentTechnology and Non-Disciosure Obligations
\begin{tabular}{|c|c|}
\hline \multirow[t]{2}{*}{Dear} & \\
\hline \multicolumn{2}{|r|}{\multirow[t]{2}{*}{We have been advised by \({ }^{\text {a }}\) Of the}} \\
\hline &  \\
\hline by & \multirow[t]{2}{*}{Consistent with the conditions on the equipment authorization granted to the Federal Communications Commission (FCC), state and local law} \\
\hline & \\
\hline \multicolumn{2}{|l|}{\multirow[t]{3}{*}{coforcment agencres must coordnate with the Federal Burcau of investigation (FBI) to complete this non-disclosure agreement pror to the acquisition and use of the equipmenttechnology authorized by the FCC authorization.}} \\
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1. The \(\square\) will ensure that operators of the equipment have net the operator traming standards identifed by the FBI and are certifed to conduct operations.
2. Th \(\square\) will coordinate with the FBI in advance of ifs use of the wireless collection equipment/echnology to ensure de-conkiction of respective missions.
3. The
 will not distribuie, disseminate, or otherwise disclose any information concerning the wireless collection equipment/techology or any software, operating manals, or related technical documentation (inchuding its technical/enginecring description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
4. The
 will not distribute, disseminate, or otherwise disclose any infomation conceming the wireless collection equipmentitechnology or any soffware, operating manuals, or related techmical documentation (inchading its techaical/engineering descripton(s) and capabilities) provided to it any other law enforcement or government agency without the prior written approval of the FBL. Prior to any approved distribution, dissemination, or comparable disclosure of any information conceming the wireless collection equipmentiechnology or any software, manuals, or related technical documentation related to such equipmenttechnology, all materials shall be marked "Lax Fnforcement Sensitive Fing Ohncial Use Only - Not to be Disclosed Outside of the
5. The \(\square\) shall not, in anv civil or criminal wocecdine, use or provide any information conceming the its associated software, operating manuals, and any related docomentation (including ts technical/enginecring description(s) and capabilities) beyond the evidentiary results obtaned through the use of the equipmentechuology including, but not limited to, during peretrial matters, in search warrants and related affidavits, in discovery, in response to court ordered diselosure, in other affidavits, in grand jary heariags, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the leams that a District Attomey, prosecutor, or a court is considering or intends to use or provide any information concoming the \(\square\) its associated software, operating maxuals, and any related documentation (mending its techical/engineering description(s) and capabilites) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relatine to the technology to be made known to the public, the
\(\qquad\) will immediately notify the FBl in order to allow sufficient time for the FBI to imervene to proted the equipment/techology and information from disclosure and potential compromise.

Notification shall be directed to the attention of:

b6 -1
Federal Bureau of huvestigation
Engineering Research Facility
Building 27958A, Pod A

\section*{UNCLASSFIED, EYYO/LAW ENEORC MTVEINOFORN}

Quantico, Virginia 22135

and


Federal Bureau of Investigation Engineering Research Facility
Building 27958A, Fod B
Quantico, Virginia 22135

In addition, the
will, at the request of the FBL seek dimmissal of the case m heu of asing or providng, or allowing others to use or provide, any infommation concerning the \(\qquad\) doclmantatron foyond the evidentiary resulis operating manuals, and any related
equipment technology), if using or providing such information would potentially or actually compronise the equipmentlechnology.
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6. A copy of any court order in any proceeding in which the is a party directing disclosure of information concernang tha
and any associated software, operating manuals, or related documentation (meluding its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information front disclosure and potential compromise. Any such court orders shall be directed to the attention of


Federal Burean of havestigation
b6 -1
Engineering Rescarch Facility
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Building 27958A, Pod A
b7E -2,3
Quantico, Virgibia 22135
and

7. The
 will not publicize its purchase or use of equipmenttochnolegy to the pubhic, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

\section*{}
8. Io the event that the \(\square\) receives a request pursuant to the Freedom of Infommation Act ( 5 U.S.C. \(\$ 552\) ) or an equivalent state or local law, the civil or criminal discovery process, or oher judicial legislative, or admsmistrative process, to disclose information concerning the
its associated software, operating manuals, and any reated documentation (moxndmg its techmical/exgineering description(s) and capabilities), the will immediately notify the FBI of any such request teleplonically and in wring m order to allow suffecent time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:
Engineering Rescarch Facility
Building 27958A, Pod A
Quantico, Virgimia 22135
and
\(\square\)

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Federal Bureau of Investrgation
Engineering Research Facility
Building 27958A, Yod B
Oumbico Virginia 22135

The \(\qquad\) acceptance of the above conditions shall be evidenced by he sionature below of an authorized representative of the
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b6 -1
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\(\square\)

Sincerely,




Nomem: - Ma











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M:














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\section*{}

Mss

\begin{tabular}{|c|c|c|}
\hline & \multicolumn{2}{|l|}{(IMD) (CON)} \\
\hline From: & (OTD) (CON) & \\
\hline Sent: & \multicolumn{2}{|l|}{Tuesday, September 20, 2016 3:36 PM} \\
\hline To: & (RMD) (FBI) & \\
\hline \multirow[t]{3}{*}{Cc:} & \(\square \mathrm{OGC})(\mathrm{FBI}) \square\) (OGC) (FBI); & (OTD) (FBI): \\
\hline & (OTD) (FBI) \(\square\) (OTD) (FBI) & \(\square\) (OTD) (FBI); \\
\hline & ](OGC) (FBI) & \\
\hline Subject: & Re: & \\
\hline Attachments: & NDA.pdf & \\
\hline
\end{tabular}

\section*{\(\square\)}
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b3 -1

Here is a copy of the NDA. Thanks.


Federal Bureau of hyestigation


CONFDENTALTY SATEMENT This message is transmited to you by the Office of the General Counsel of the federal Bureau of mestigation. The message, along with any attachment, may be confidential and legally privileged. f you are not the intended recipient of this message, please destroy it prompty whout further retenton or discemination (unkes otherwise regured by hawh. Please notify the sender of the error by a separate e-mall or by calling $\qquad$

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$X$ No Duplication Fee $X$
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FEDERAL BUREAU OF INVESTIGATION
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# U.S. Deparkment of instice <br> Federal Bureau of Investigation 

Washingtor DC. $20535-(\mathrm{yNO}$
November 13, 2012

## Re: Acquisition of Wireless Collection Equipmen/Technology and NonDisclosure Obligations

b3 -1
b7E -1








Dear $\qquad$
We have been advised by $\square$ of the request for acquisition of certain wireless collcction equipment/echnology manufactured by Consistent with the conditions on the equipment authorization granted to by the Federal Conmunications Commission (FCC), state and local law enforcenent agencies must coordinate with the Federal Burean of Investigation (FBD) to complete this nondisclosure agrement pror to the acquistion and use of the eguipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipnent/echology to conduct lawfully-authorized clectronic sarvellance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabiities possessed by the law cnforcement community and may allow individuals who are the subject of investigation wherein this equipnent/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement offcers and other
individuals, but also adversely impact criminal and natonal secmity investigations. That is, disclosure of this infomation could resuls in the FBI's inability to protect the public from terrorism and other criminal activity because, through pubic disclosures, this technology has been rendered essentially useless for furure investigations. In order to ensure that such wireless collection equipment/echnology continues to be available for ase by the law enforcement community, the equipment/techology and any information related to is functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including but not limited to in press releases, in court documents, dming judicial hearings, or duning other public forms or proceedings. Accordingly, the
 agrees to the following conditions in connection with its acquisition and we of the

1. By entering into this agreenem, the $\square$ alfirms that it has
2. The will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certiffed to conduct operations.
3. The $\square$ wll coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
4. The $\square$ will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipmentitechnology or any sofware, operating mamuls, or related technical docamentation (inoluding its technical/engineering description(s) and capabilites) to the public, inchding to any nonlaw enforcement individuals or agencies.
5. The $\square$ will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation fincluding its technical/engineering description(s) and capabilities) provided to it to any other law enforcement or govemmen asency without the prior witten approval of the EBI, Prior to any approved distribution, dissemination, or comparable disclosure of any infomation conceruing the wireless collection equipmentlechnology or any software, manvals, or related technical documentation related to such equipment/technology, all materias shall be marked "Law Enforcement Seasitive, For Offical Use Oniy ~ Not to be Disclosed Outside of the $\qquad$
6. The hall not, in any civi or criminal proceeding, use or provide any information concerning the $\square$ its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary resulks obtained through the use of the equipment/echnology including, but not limited to, during pre-tial matters, in search warrants and related affidavis, in discovery, in response to court ordered disclosure, in other affidavits, in grand juy hearings, in the State's casennuchief, rebuttal, or on appeal, or in testimony in any obase of eivil or criminal tral, withont the prior written approval of the FBI. If the leams that a District Attomey, prosecutor, or a court is
considering or intends to use or provide any information concerning the $\square$ its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary resuts obtained through the use of the equipmentlechnology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, tha
will immediately notify the FBI in order to allow suffecent time for the FBI to intervene to protect the equpment/techology and information from disclosure and potential conmpromise.

Notification shall be directed to the attention of:

8. In addition, the $\qquad$ will, at the request of the MBI , seek b3 -1 dismissal of the case th her of asing or providne or allowing others to use or orovide. any information concerning the , its associated sonware, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipmenttechnology, if using or providing such bifomation would potentially or actually compromise the equipment/technology. This point supposes that the agency has some control or infuence over the prosecutomal process. Where such is not the case, or is limited so as to be inconsequential, it is the FBI's expectation that the law enforcenent


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agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.

| 9. A cony of any cours order in any proceeding in which the |
| :--- |
| is a party directing disclosure of information concerng the | documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficiont time for the FBI to intervene to protect the equipment/techoology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:



Federal Bureau of Investigation.
Engineering Research Facility
Building 27958A, PodA
b6 -1
Quantico Vircinis 22135
b7C -1
b7E -2,3
and


Operational Technology Division
Federal Burcau of Investigation
Engmeering Research Facility
Building 27958A, Pod B
Quantico. Virginia 22135

equamenmecmology to the public, other law enforcement agendes, of other govemment agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.
11. In the event that the $\qquad$ receives a request pursuant to the Freedom of Infomation Act (5 U.S.C. 8552 ) or an equivalent state or local law, the civil or criminal discovery process, or other jedicial legislative or administrative nrocess to disclose information conceming the cowne its associated software, operamy manuats, and any related aockmensatron (mcruding its technical/engineering description(s) and capabilities), the will immediately notify the FBI of any such request telephonically and in writing in order to allow sulficient time for the FBl to seek to prevent disclosure through appropriate chamels. Notification shall be directed to the attention of:

| Federal Bureau of investigation |  |
| :---: | :---: |
| Engineering Rescarch Facility |  |
| Building 27958A, Pod A |  |
| Ouandico. Virginia 22135 |  |
|  | b6 -1 |
|  | b7c -1 |
| and | b7E -2,3 |
|  |  |
| Operational lechnology Division |  |
| Federal Burcau of Investigation |  |
| Engineering Research Faclity |  |
| Building 27958A, PodB |  |
| Quantico, Virgina 22135 |  |
|  |  |

The $\square$ s acceptance of the above conditions shall be evidenced by the sinnatures below of an asithorized representative and wireless collection equipment operators of the

Sincerely,
b3 -1
b6 -1
b7c -1
b7E -1



## U.S. Department of Justice

Federal Bureau of Investigation

Washingtor, DC 2035-000

December 1, 2014

IN TURN

b3 -1
b7E -1


Re: Acquisition of Cell Site Smulator/Pen Register Equipmen/Techology and Non-Disolosure Obligations


We have been notified of the request for acquisition of certain cell site simulatovpen register equipment providing celluar device locating and identifying capability. Consistent with the condition on the equipment auhorization granted by the Federal Communications Commission. State and local law entorcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure ageement in order to acquire and use cell site simalator/pen register equipmenttechnology.

Law enforcement agencies rely on cellular device locating and identifying capability to help meet their law entorcement and pubic safety responsibilities. Disclosure of certain information about cell site simulatonipen register eguipment and techniques to the public, such intomation referred to by the Federa Govemment as Law Enforcement Sensitive (LES), would
allow adversaries of law cuforcement to diminish or thwast law enforcement efforts, thereby enobling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this techology or its use may reveal more infomation than its appaxent insignsficance suggests because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual piece is not of obvious importance in itself. Thus, disclosure of what appears to be innocuous thomation about cell ste simulators would provide adversaries with critical information abouk the capabilities, limitations, and circumstances of their use, and would allow those adversarics to accumbate information and draw conclusions about the use and technical capabilities of the technology. In twrn. this woula provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwart the use of this technology in order to cvade detection by law enforcement and creumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are often used in counterterrorism and comerinteligence investigations. Thus, compronise of the law enorcenent community's investigational equipment and methods in a criminal case or a pablic records disclosure could have a significan detrimental impact on the national security of the United States.

Due to these concems, the FBI has consistently asserted that the details concerming the use, implementation and application of cell site simulator technology is both law enforcement semsitive and protected homeland secunty information, and any disclosure could easily impair the use of this important hevestigative method. In recognition of this vunerability, the FBI has, as a matter of policy, protected this category of electronic sarvellance equipment and techique from disclosure, directing its agents that while general lacts that a surveilance or location operation was conducted in connection with a specific case may be disclosed, neither details as to the equipnent's operation nor the tradecraf involved may be disclosed. See United States $v$. Rignaiden, 845 FSupp. 982 (D.Axiz. 2012); United States v. Garey, 2004 WL 2663023 (MD.Ga, Nov, 15, 2004).

As mentioned carlier, any information conceming cell site simulator equipment or technology (including, but not limited to information about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training REVSION 2
materials concerning the capabilities on technology, or tradecrat required to operate the equiment) authorized by the FBI to be provided to your agency is considered protected homeland security information under the Homeland Security Act ("HSA"). Under GU.S.C. § 482 (e), homeland security information "obtained by a State or local government from a Federal agency under this section shall remain wnder the control of the Federal agency, and a State or lowal law authorizing or requing such govemment to disclose information shall not apply to such information." The MSA defines "homeland security information" as information that relates to the ability to prevent, interdiet, or disrupt terrorist activity; information that would improve the identification or investigation of a suspected terrorist or terrorist organization; or intormation that would mprove the response to a terrorist act. See 6 U.S.C. 8 \& 482 ( $)$ (1)(B) (D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and understands that disclosure of protected homeland secunty information is specincally prohibited ander Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United Stases
 principle, Federal haw prempts Stare law where Congress has said so explicity).

Finally, by entering into this agrement, you acknowiedge that you undersuand cell site smanator techology is a regulated defense article on the United States Munitions List (USME"). See 22 C.FR. \& 121.1(b). As such, techncal details conceming this technology are subject to the non-disclosuxe provisions of the Intemational Traffe In Ams Regulations (sTAR"), 22 CFR., Parts 120-130. The TTAR implements the Amm Export Control Act, 22 U.S.C. $\$ 2778$, and Executive Order 13,637 , which coutrol the export and inport of defenserevated anticles and services listed on the USML. Because this equipmen is explicitly govemed by the $\mathrm{TAR}, 22 \mathrm{CFR} . \$ 123$, requires anyone to obtain a hicense from the Deparment of State prior to making an export. Notably, techusical infomation does not have to leave the borders of the United States to be deemed an expor subject to the regulation. See 22 CF.R. \& 120.17 (defining an export as the disclosure of technical data about a defense article to a foreign national, even while located in the United States). Consecuenty, if a State or local govermment disseminates any part of the technical information to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it
accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at its offices, this could constitute a violation of the Ames Control Export Act. Unauthorized disclosure of TTAR-controlled information is a felony punishable by up to 20 years imprisonment and up to $\$ 1$ million per occurrence. See 22 C.FR., Part 127.


Accordingly, to preserve the continued efficacy of the canahilite for the sum Enforcement Community, the County and agree to the following conditions in connection with the acquisition and use of the cell site simblator/pen register equipment/techology:

1. The signing State or municipal government official affirms that he or she has the authonty to lawfully obligate his or her State or municipality to the conditions of this agreement. Moreover, the official affirms that appropriate legal counsel has determined the nondisclosure obligations herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the State or municipality will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing law enforcement agency official affirms that he or she has the authority to lawfully obligate his or her agency and its personnel to the conditions of this agreement. Moreover, the official affirms that the law enforcement agency will itself perform due diligence in meeting is nondisclosure obligations as and when necessary.
3. The signing law enforcement agency official affirms that the appropriate chef prosecuting officials) representing the jurisdictions) of possible use of the agency s cellular device identifying and locating capability was (were) notified of the law enforcement agency's intended acquisition of the equipment technology and he or she (they) indicated an understanding that use of the capability in a specific prosectorial jurisdiction by the law enforcement agency is conditioned on the chief prosecuting officials separate written nondisclosure agreement with the FBI (notification and request for the separate agreement to be made as indicated in condition 10 . below).

Furhemore, the law enforcement ageney official agees that, after exhaustion of all othex lawill means, including implementing advice and assistance from the FBL, the law enforcement agency will, at the request of tite FBI, seek dismissal of the case with the prosecuiorial jurisdiction in hev of using or providing, or allowing others to use or provide, any sensitive infomation conceming the cell site simalatorpen register equipment/technology in criminal Itigation.
4. The signing law cxforcement agency official affirms that the law enforement agency has statutory authority to lawfully employ this technology and will do so only in suppot of public safety operations or criminal investhgations within State or municipal jurisdictions that are also party to appropnate, related nondisclosure apreenents with the FBL. Moreover, the law enforement agency assumes responsibilty for operating the equipment/techology in accordance with State and Federal law and regulaton and accepts sole hability for any violations thereof, mespective of the Federal Bureau of Investigation approval, if any, for the acquisition of the equipmenttechnology.
5. The signing law enforcement agency official affirms that he or she moderstands and acknowledges that this equipnent, under Federal law, functions as a pen register device as defined in 18 U.S.C. $\$ 3127(3)$ and that 18 U.S.C. 3121 (a) prohibits any person. including law enforcement, from operating a pen register device without frst obtaining a court order, or having emergency pen register authonty under either State or Federal law, as applicable. The signing law enforcement agency official agres that he or she will not permit the operation of the device without having a courtissued pen register order or emergency pen register authority as outhed in Federal or State law,
6. The signing law enforcement agency official affirms that he or she understands that he or she is prohibited by Federal law from intercepting the content of any communications with a pen register device, and that he or she mask use technology reasonably available to the agency to restrict the equipmeni to reconding or decoding electronic or other impulse to the dialing, routing, addressing and signaling information uilized in the processing and transmiting of wire or electronic communications. See 18 U.S.C. $\$ 3121$ (c).
7. The signing law enforcement agency official affirms that operators of the equipment mee the operator traming standards, identifed separately by the FBl, before operating the equipment, are certified by their agency to conduct operations, are notified of the conditions of this agreement, and are legally bound to this agrement by virtue of their employment or through an internal writen contrack with the agency or State or municipal govermment.
8. The State or municipal govemment andor law enforcement agency may, without firss obtaining prior approval from the FBl , confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the agency has cell site simulator/pen register equipment (without disclosing make and model) that provides the capability to locate or identify a celludar device, 2 ) a description of the legal authority relied upon for using the capability, 3 ) a description not containing LES information (see conditions 9. and 10. befow) of agency policies or practices that ensure legal compliance and protection of third party privacy rights, 4) the fact that the capability might cause temporary disruption of service for certain cellular devices in the operating area, 5) that the equipment was used to determine general location infomation about the target cellular device, and 6) that the capabilty is a sensitive investigative technique so frther details are protected and will not be publicly disclosed or contimed. Note: The preceding provisions slall be narrowly and stricty construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.
9. Except for the strictly constructed permission in condition 8 . above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civil hitigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protect LES information and timely notice to the FBI pursuant to this agreement is presumed, the State or municipar goverment and law enforcement agency will not, absent writen FBI approval, distribute, disseminate, disclose, or ofherwise conimm any LES infomation, as determined by the

FBI, concerning the cell site simulator/pen register equipmenttechnology to the public, including to any non-law enforeenent individuals or agencies not otherwise part of this agrement. These restrictions include, but are not hmited to, tradecraf, techical detals, functional limitations or volnerabilities, manufacturer, model name, hardwate, software, operating manuals, related technical documentation (inchuding technical/engineeng descriptions and capabibites), line tiem costs, or retated entries in acquisition, funding, grant, or procuremert documents, such documents often being susceptible to public disclosure by State or municipal financial asthorities.
10. The signing State or municipal govemment offetal and the signing law enforcement agency official affm on behalf of their respective organizations that guestions about or determinations of what constitutes LES or protected homeland security information will be deferred to the FBl. If the $\$$ tate or muinipal govemment or law enforcement agency receives a request or order to disclose any infomation abont the cell site simulator equipment/echnology, or learns of such anticipated activity, an appropriate offecal wit immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/technology.

All notifications or imbiries regarding this agreenent and the subject capability shall be directed to the attention of:

11. The signing law enforcement official understands and acknowledges that his or her agency's approval to aequire and use the cell site simulator is expressly conditioned on execution of and adherence to this non-disclosure agreement with the FBI, In the event that the FBI determines the agency is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacturer to discontinue services for, or disable, the agency's cell site simulatorpen register equipment.
12. Once signed, the conditions of this agreenent remain in effect until rescinded in writing by the FBI, except that the agreemen must be re-accomplished annually. If the State or municipal govemment, law enforcement agency, and prosecator's office do not all agree to the annual renewal, or the ammal agreenent period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agrement, the FBI reserves the right to rescind its endorsement of the law enforemen agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 11. above.
13. The signing State or municipal govemment offctal and the signing law enforcement agency official affirm that any successors to their positions will be notified about this agrement and of the requirenent to adhere to the conditions herein to consure the agency's continued use of cell site simulator/pen register equipment/echnology. Similarly, the signing law enforcement agency offcial affims that any successor to the position of the chief prosecting offical will be notified of the separate prosecutorial non-disclosure agrement and of the requirement to adhere to that agreement in order to ensure the law enforcement agency's continued use of eell site simulatovpen register equipment technology. In any instance of succession in this context, the law enforcement agency official will notify the FBI as indicated in condition 10 above.

The acceptance of the above conditions shall be evidenced by the sionatimes halow of authorized representatives of the
 and


Sincerely,


Federal Bureau of Investigation
 due in one year.



Classification: UNCLASSIFIED//工凡
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 distributed whim the Federal Goverment (and is contractors), US intellgence, bw enforcement, publo safey or protection officis and indwiduls with a need to know, Distrbution beyond these entites without fbi athorization is prohbited. Precations showd be taken to ensure the infomaton is stored and/or destroyed in a manner that predude unathorized access. information bearing the LES caveat may not be used in legal proceedings whout first receiving authorization from the orignating agency. Recipiens are prohibited from subsequenty posting the information marked ifs on a website or an unclassifed network.


Thanks

## From:

 OTD)(FBI)Sent: Wednesday, October 07, 2015 6:58 PM
To:
Subject: FW: CSS Procurement NDA Exemplars --- UNCLASSIFIED/TLES

Classification: UNCLASSIFIED//

(U) LAW ENFORCEMENT SENSITIVE: The information marked (U//LES) in this document is the property of FBI and may be distributed within the Federal Government (and its contractors), US intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website or an unclassified network.


To: $\quad$ Subject: CSS Procurement NDA Exemplars --- UNCLASSIFIED//LES

Classification: UNCLASSIFIED//IS

 within the Federal Government (and its contractors), US intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website or an unclassified network.

In reference to our meeting earlier this week pertaining to cell site simulator NDAs, the attached documents represent original and current NDA documents for your review.
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# U.S. Mepartment of Bustice <br> Federal Bureau of hyentigation 


December 1.2014

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Re: Acquisition of Cel Site SimblatorPen Register EquipmentTechmology and Non-Disclosure Obligations

## Deas $\square$

We have been notified of the $\square$ request for
b3 -1 b6 - 3
b7c -3
b7E -1 acquistion of certan cell site simulatorpen register equipment providing cellalar device locating and dentifying capabinty. Consistext with the condition on the equipment authorization granted by the Federal Communications Commission, State and local law enforcement agencies musk coordnate with the Federal Buxean of lavestigation (FGI) to complete this non-disclosure ageement in order to acquire and use cell site simulator/pen register equipmen/technology.

Law enforcement agencies rely on celluar device locating and identifyg capability to help meet their law enforcement and pablic safety responsibilities. Disclosure of certan intormation abouf cell site simulatorpen register cquipment and techniques to the public, such information referced to by the Federal Govemment as Law Enforcement Sensitive (IES), would allow adversaries of law cnforcement to diminish or thwart law enforcement efforts, thereby enabling stich adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its nse may seveal more shormation than its apparent inaignificance suggess because, much like a jigsaw puzzle, cach detail may aid in piecing together other bits of information even when the individual piece is not of obvious importance in
isself. Thus, disclosure of what appears to be innocuous information about cell site simulators would provide adversaries with critical infomation about the capablitties, limitations, and circumstances of their use, and would allow those adversaries to accumblate infomation and draw conclusions about the use and technical capabilites of the feotmology. In twn, this woud provide them the information necessary to develop defensive technology, nodity their behaviors, and otherwise take countemeasures designed to thwan the ase of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equiptrent, and tools used in criminal cases are often used in counterteronism and comberntelligence investigations. Thus, compromise of the law enforcement commanity's investigasional equipment and methods in a criminal case or a public reconds disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concerns, the MBI has consistently asserted that the detabls concerning the use, implementation and application of cell site simulator techology is both law enforcement semsisive and protected homeland security infommation, and any disclosuxe could easily impair the use of this important investigatve method In recogntion of this vunerability the FBI has, as a matter of policy, protected this category of electronic survellance equipment and techique from disclosure, directing ths agents that while general facts that a survellance or bocaion operation was conducted in connection with a specific case may be disclosed, neither detals as to the equipment's operation nor the tradecrat involved may be disclosed. See United Slatery Rismoiden, 845 FSupp. 982 (D.Ars. 2012); United Stares w. Garey, 2004 W1. 266023 (MD.Ga, Nov, 15, 2004).

As mentioned earher, any information conceming cell site simulator equipment or techology (including, but not limited to infomation abont the operation of the equipment or technology itself, limatations or capabilities of the equipment or technology, any training materals conceming the capabilties or technologys or tradecraft required to operate the equipment) authovzed by the FBI to be provided to a state law enforcement agency is considered protected homeland securty infomation under the Homeland Securty Act ("HSA"). Under 6 U.S.C. \$ $482(e)$, homeland security information "obtained by a State or local govemment from a Federal agency under this section shall remain under the control of the Federal agency, and a

State or local law authorizing or requing such govemment to disclose information shall not apply to such information." The HSA defnes "homeland seearity information" as information that relates to the abilty to prevent, interdict, or disnupt terronst activity, information that would improve the identification or investigation of a suspected terronist or terrorist ogganization; or insomation that would improve the response to a terrorist act. See 6 U.S.C. $8 \$ 482(0)(1)(B)$-(D). Cell site simulator techology meets all tree criteria. Accordingly, by signing this agreement, your asency agrees and maderstands that diselosure of protected homeland security information is specifically prohibited under Federal law, and that this law expressly precmpts state and local disclosure laws under the Supremacy Clause (Article Vl, clause 2) of the Urited States
 principle, Federal law preempts State law where Congress has sad so explicitly).

Finally, by entering into this agrecment, you acknowledge that you understand cell site simulator technology is a regulated defonse article on the United States Mmitions List (USME"). See 22 CER $\$ 121.1$ b). As such, technical details concerning this techology are subject to the non-diselasure provisions of the Intemational Traffic In Arms Regolations (TTAR"), 22 CER, Pars 120-130. The TTAR implements the Amms Export Control Act, 22 US.C. 82778 , and Executive Order 13.637, whoh control the expont and import of defensereated anticles and services listed on the USML. Because this cquipment is explicitly govemed by the TAR, 22 CFR, $\$ 123.1$ requires anyone to obtain a license from the Deportment of State pror to making an export. Notably, technical information does not have to leave the borders of the United States to be deemed an export subject to the reguation. See 22 C.F.R. \& 120.17 (defining an expon as the disclosure of technical data about a defense article to a foregn mational. even while located in the United States), Consequenty, if a State or local governmen disseminates any part of the technical information to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it accessible to non-U.S. citizens, or that the requesting entity employs or has any non-US. citizens present at is offces, this cond constitute a violation of the Ams Control Export Act. Urauthorized disclostre of ITAR-controlled information is a felony ponishable by up to 20 years imprisonment and up to $\$ 1$ milhon per occurrence. See 22 CFR , Part 127.

Accordingly, to preserve the continued cffocacy of the capability for the Law Enforcement Communiy, the Deparment of Justice agrees to the following conditions in comection with the acquisition and use of the cell site simulatorpen register equipmenttecmology:

1. The signing chef prosecuting official (CPO) affirms that he or she has the authority to lawfuly obligate his or her agency to the conditions of this agrecment. Moreover, the official affirms that appopriate legel counsel has detemined the nondisclosure obigations herein are defensible under State law, as possibly angmented by Federas statutory protections, such as might be necessary for public records access requests, and that the agency whil itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing CPO affrms that the above-named law enforcement agency's acquistion and use of cellalar device identifying and locating capablity is conditioned on this separate written won-diselosure agreement with the FBI. Furthermore, the CPO agrees that, wher cxhaustion of all other lawful means, including implementing advice and assistance from the FBI, the prosecuting agency wil, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing ohers to use or provide, any sensitive infomation concerning the cell site simulatovpen register equipmenttechnology in criminal litigation.
3. The signing CPO affims that the above-named law entoreenent agency has statuory authority to lawfily enploy this technology in support of pubic satety operations or criminal investigations.
4. The signng CPO afirms that he or she urderstands and acknowledges that this equipment, under Fedexal law, hunctions as a pen register device as defned in 18 U.S.C. 3127(3), and that 18 U.S.C. 33121 (a) prohibits any person, including law enforcement, from operating a pen register device without first obtaining a court order, or having emergency pen register authority under cither State or Federal law, as applicable.
5. The CPO's agency may, whout first obtaming pror approval from the FBF, confirm or diselose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the above-named law enforcement agescy has cell site simukatorpen register equipment (without disclosing make and model) that provides the capablity to locate or identify a cellular device, 2 ) a description of the legal authority relied upon for using the capabitity, 3 ) a description not containing LES information (see conditions 6. and 7. below) of the above-named law enforcenent agency's policies or practices that ensure legal complance and protection of third party privacy rights, 4) the fact that she capability might cause temporary disruption of service for certain cellular devices in the operating area, 5) that the equyment was ased to determine general Iocation infomation about the target cellular deviee, and 6 ) that the capabilisy is a sensitive investagative technique so further detals are protected and will not be pubicly disclosed or confmed. Note: The preceding provisions shall be narowly and stricty construed. Any questions regaxding interpretation or scope of these provisions must be addressed with the FBI pror to disclosure.
6. Except for the stricty constructed permission in condition 5 . above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agrement, criminal or chvil itigation discovery considerations, or public records aceess request processing, in which the exercise of due diligence to protect LES information and timely notice to the FBI pursuant to this agrement is presumed, the prosecuting agency will not, absent written FBT approval, distrbute, disseminate, disclose, or oherwise confirm any LES informaton, as determined by the FBI, conceming the cell site simulatorpen xegister equipmenttechnology to the public, moluding to any non-law enforcenent individuals or agencies not oberwise part of this agreenent. These restrichons include, but are not limited to, tradecraft techmical details, functional limitations or vulnerabilities, manufacturer, model name, hardware, software, operating manxals, related technical documentation (ncluding technical/engineering descriptions and capabilitics), line trem costs, or related entries in acquisition, funding, grant, or
procurment documents, such documents often being susceptible to public disclosure by State or municipal financial authorities.
7. The signing CPO affims on behalf of her or his agency that questions about or determinations of what constitutes LES or protected homeland security information wils be deferred to the FBL. If the prosecuting agency receives a regaest or order to disclose any infomation about the cell site simblator equipment/technology, or leams of such anticipated activity, an approprate official will inmediately notify the FBL in order to allow sufficent time for he FBI to assisf in protecting the equipnent/technology.

All notifications or mquies regarding this agrement and the subject capability shall be directed to the attention of

8. The signing CPO understands and acknowledges that the above-named law enforcement agencys approval to acquire and use the cell site simblator is expressly condtioned on all relevant paries" execution of and adherence to this non-disclosure agreement with the FB3, In the event that the FBI detemines the any party is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacturer to discontmue services for, or disable, the agency's cell site simulatorpen register equipment.
9. Once signed, the conditions of this agreement remain in effect snib rescinded in writing by the FBl, except that the agrecment must be reaccomplished annually. If the State or
municipal government, haw enforcement agency, and prosecutor's office do not all agree to the annal renewal, or the annal agrement period otherwise expires (one year from the acknowledged and agreed date) withou a completed renewal, or any one of them do not abide by the conditions of the agreement, the FBI reserves the right to rescind its endorsement of the law enforcemmen agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 8 . above.
10. The CPO affims that any staccessor to her or his position will be notified about this agreenent and of the requirement to adhere to the conditions herein to ensure the abovenamed law enforcement agency's contmued use of cell site simulatorpen register equipmen/techmology, In any instance of succession in this context, the CPO's agency will notify the FBI as indicated in condition 7 . above.

The acceptance of the above conditions shall be evidenced by the signature below of the auborized representative of the Department of Justice

Sincerely,


Operational Technology Division
Federal Bureau of hvestigation
b3 -1 b6 -1,2 b7C -1,2 b7E -1
 due $3 n$ one year.


FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA\# 21-cv-10719
Total Deleted Page(s) $=3$
Page 1 ~ Duplicate;
Page 2 ~ Duplicate;
Page 3 ~ Duplicate;
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$X$ Deleted Page(s) $X$
$X$ No Duplication Fee $X$
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FEDERAL BUREAU OF INVESTIGATION
FOI/PA
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FOI/PA\# 21-cv-10719

Total Deleted Page(s) = 1
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## Sent:

To:
Cc:
Wednesday, September 23, 2015 10:12 AM c.

Subject:
Attachments:


Classification: UNCLASSIFIED//



| From: Sent: | (OTD) (FBI) |  |
| :---: | :---: | :---: |
|  | Sent: Tuesday, September 08, 2015 9:52 AM |  |
| To | (OTD)(FBI); | (OTD)(CON) |
| $\mathrm{Cc}: \square$ (OTD) (FBI) |  |  |
| Subject: FW: Assigned Task: CSS Procurement NDA --- UNCLASSIFIED//EO\&Q |  |  |
| Class | ification: UNCL | ASSIFIED / |

$\square$ lease see task below and respond by C089/30/2025. Template attached.

Title
Classification:
Priority:
Tasking POC:
Originator:
Deadine:
Summary Of Request:

Detalled Request
Description:
cs Procurenent NDA
UNCASSMED/FOUO
4. 10 m


asking for a saus on this by the deadine. | Backgromd: | b5 -1 |
| :--- | :--- |
| PROR WFOMATION PACMETS PROVIOEDTOTHE |  |

Thanks.
$\square$ b6 -1
b7c -1
From b7E -2
Sent:Tuesdav. Sentemper 08, 2015 9:47 AM
To.
FBI)
(OTD) (FBI) (OTD) (FBI) $\square$ (OTD) (FBI); $\qquad$
Subject: Assigned Task: CSS Procurement NDA

Hello,
You have been assigned as an approver on the following task: CSS Procurement NDA
Available Tracking Numbers
racking Number:
b7E -2,3
External Tracking Number:


The following are deadlines associated with this task:
Deadline: 10/1/2015 12:00:00 PM
This email was automatically sent, please do not reply.

Classification: UNCLASSIFIED//FQU

Classification: UNCLASSIFIED//FO

U.S. Bepartment of Justice<br>Federal Bureau of Investigation

Whshington, DC. 20535-6001
March 25,2014


#### Abstract

$\square$

\section*{Re: Acquisition of Wireless Collection Equipment/Techology and NonDisclosure Obligations}


#### Abstract

the Ahe Thermation in this dowment is the propery of the Federal Bureau of Inventigation ( BB ) axd noy be distmbuled whin the Federal Gowernment fand is comractors), US mbeligence, law enforcentem, public safty of prolection offcials and indwiduals with a need to hnow Diswibution beyond these entites without ERI Operational Technoloky Division auhtomistion is prohbited Precautons shondd be taten to ensure this nformaton is shored andfor dewroyd in a mawer that prechudes whouthorived access. Informonom bearing the LES caveal may not be wed in legal procedings whthou fiss recening authorizwion from the originowing agency. Recipients are prohibited from subsequenty posting the information manked LES on a website on an whassifed network


$$
\begin{aligned}
& \text { Dear } \square \\
& \text { b3 -1 } \\
& \text { b7E -1 } \\
& \text { We have been advised by } \square \text { of the } \square \text { recuest } \\
& \text { for acouisition of certain wireless collection equamenttechnology manufactured by } \\
& \text { Consistent with the conditions on the equipment authorization granted to } \\
& \text { by the Federal Communications Commission (FCC), state and local law } \\
& \text { cnorement agencies must coordinate with the Federal Bureau of Investigation (FBI) to } \\
& \text { complete this non-disclosure agrement prior to the acquisition and use of the } \\
& \text { equipnent technology authorized by the FCC anthonzation. }
\end{aligned}
$$

As you are aware, law enforcenent agencies increasingly rely on wireless collection cquipnenttecmology to conduct lawtullyauthorized electronic survellance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public wonld reveal sensitive technological capabilites possessed by the law enforcenent community and may allow individuals who are the subject of investigation wherein this equipment/echnology is used to employ countemeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and ofher
individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this bnfomation could result in the EBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology bas been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipmenttechnology contimues to be available for use by the law enforcement communty, the equipmenttechmology and any information related to its finctions, operation, and use shall be protected from potential conmromise by prechding disclosure of this infomation to the public in any manner including but not himited to: in press releases, in court documents, durins budicial hearings, or during other public forms or proceedings. Accordingly, the agrees to the following conditions in connection with its acquisition and use of the

1. By entering into this agremen, the $\square$ affirms that it has statutory authority to lawhully employ this technology and will do so only in support of public safery operations or criminal investigations.
2. The $\square$ assumes responsibility for operating the equipment/techmology in accordance with Federal law and regulation and accepts sole liabilisy for any volations thereof, irrespective of the Federal Bureau of lavestigation approval, if any, for the sale of the equipment/technology.
3. The $\square$ will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
4. The $\square$ will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-conffiction of respective missions.
5. The will not dismibute, dissenninate, or otherwise disclose any information concerning the wireless collection equipmenttechnology or any software, operating manuals, or related technical documentation (moluding its technical/enginecring description(s) and capabilities) to the public, including to any nonlaw enforcement individuals or agencies.
6. The
 Will not distribute, disseminate, or otherwise disclose any infomation conceming the wireless collection squipment/techology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it to any other law enforemen or govermment agency without the prior written approval of the FBI. Prior to any approved fistribution, dissemination, or comparable disclosure of any information conceming the wireless collection equipmenttechnology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the $\qquad$
7. The $\square$ shall not, in any civil or criminal proceeding, wse or provide any information conceming the

$\square$ its associated software, operating manuals, and any related documentation (including its technica/enginecring description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/echnology including, but not limted to, during pretrial matters, in search warrants and related affidavits, in discovery, in response to const ordered disclosure, in obter affidavits, in grand jury hearings, in the State's case-in-chief, rebutal, or on appeal, or in testimony ins any phase of civil or criminal trial, without the prior writen approval of the FBI. If the $\square$ leams that a District Atromey, prosecutor, or a court is considering or intends to use or provide any intormation conceming the manuals, and any related documentation (holuding its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the ase of the equpment/technology in a namer that will cause law enforcement sensitive information relating to the technology to be made known to the public, the
ill immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/techoology and information from disclosure and potential compromise.

Notification shall be directed to the attextion of:

8. In addition, the will, at the request of the FB , seek dismissal
b3 -1
b7E -1 information conecrning the its associated sotware, operame manwas, and any reated documenthon (beyond the evidentiary results obtained through the use of the equipment/technology, if asing or providing such information would potentially or actually conpromise the equipmenttechology. This point supposes that the agency has some control or influence over the prosecutorial process. Where such is not the case, or is limited so as to be inconsequential, it is the FBI's expectation that the law enforcement agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.
9. A copy of any court order in any proceeding in which the $\square$ party directine disclosure of infomation concenming the $\square$ dommentation and any associated software, operating manuals, or related docamentation (sncluding its techmicallenginecring description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:


Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, PodA

b6-1
b7C -1
b7E -2,3
and


Operational Technology Division
Federal Bureau of Investigation
Engineering Rescarch Facility
Building 27958A, Pod B

10. The $\square$ not publicize its acquisition or use of the $\square$
$\square$ or any of the capabilities afforded by such equipment/techuology to the public, other law enforcement agencies, or other govermment agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.
11. In the event that the $\square$ receives a request pursuant to the Freedom of Infomation Acf (SU.S.C. 3532 ) or an equivalent state or local law, the civil or criminal discovery process, or other judicia, levislative or admimistrative process, to disclose information conceming the $\square$ wireless collection equipmentitechnology, its associated software, operating manuals, and any related documentation (ncluding its technical/enginecring description(s) and capabilitics), the will inmediately notify the FBI of any such request terepmoncally and mowng in order to allow suffient time for the FBI to seck to prevent disclosure through appropriate chamels. Notification shall be directed to the attention of:
b3 -1



b3 -1
b6 -2
b7C -2
b7E -1
$\square$
b6 -1
Federal Bucau of Investigation b7c -1

Aitn:
Federalbureat of inyestigation
Re: Addendum to August 28, 2012 "Acquisition of Wireless Collection
Equipnent/echnology and Non-Disclosure Obigation*
Condined fron Page (6) of (6) of the fully execated Non-Disclosure Obligation: b3 -1
The $\square$ acceptance of the above conditions shall be
 equipment operatos of he


Hawing read and understoon the agreement in the entrety, Iagree to adhere completely to the rules and implications of this Non-Dieclonure Obligation.

$\square$

## Attention:

$\square$
b3 -1

Pestrictad Sofissare Remisoct NOA
Subject:
Restricten sonnsane Rerxamasi NBA
$\square$
Reference:

Contractor respectfully requests approval to provide capabilty to the attached state \& bocal law enforcement agency. Per the defined process, please contact this agency to execute the FBI NDA.

Sincerely,
$\square$

Contact information:


Operator information:
b3 -1
Sentor Execuive Level Manager that cam accept responsibilfy for the proper use of equipment $\square$


All individuals that will be operatixg equipment within the department
$\qquad$

Note Follure to acsurately complete this information whit result in delay in NDA processing



Smbmber 18 , mbs

b6 -1
b7c -1
Benem Buran of martismben
Am:








December 10, 2014


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b6 -1
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b7c -1

Attn:
Federal Bureas of Invextigation
Re: Addendum to September 11. 2014 "Acquisition of Wireless Collection
Equipment/Technology and Non-Disclosure Obligation"

Continued from Page 6 of 6:


Having read and molerstood the agreement in its enincty, Iagree to adhere completely to the rules and implications of this Non-Disclosure Obligation.

| Acknowledged and agreed to this $\bar{y}$ |
| :---: |

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b3 -1
b6 -2
b7c -2
b7E -1
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# UNCLASSHIED/LAW RNFOREENCNT SEM 

4.S. Departmeat of bustice<br>Federal Bureau of hivestigation

Washingtor, DC.20535-1001
September 11, 2014

|  |
| :---: |
| Re: Acquistion or Wireless Collection Equipment/Technology and Non- <br> Disclosure Obligations |
| $\mathrm{b} 3-1$ <br> $\mathrm{~b}-2$ <br> $\mathrm{~b} 7 \mathrm{c}-2$ <br> $\mathrm{~b} 7 \mathrm{E}-1$ |


#### Abstract

   FBI Operatonal Techmogy Divison authortation s prohibted Precomitons whom be taken to ensure this momation is   posting the information marked LES on a website on an wholasiffed wetwork


Deal
We have been advised by $\square$ of the request for acquisition of certain wireless collection equipment/technology manufaciured by $\square$ Consistent with the conditions on the equipnent abthorization granted to by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBS) to complete this non-disclosure agrement prior to the acquisition and use of the equipmenttechnology authorized by the FCC authorzation.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipmenthechnology to the public would reveal sensitive technological capabilities possessed by the law enforement conmunity and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ comnermeasures to avoid detection by law entorcentent This would not only potentially endanger the lives and physical safety of law enforcement officers and other
individuals, bat aiso adversely impact criminal and national secarity investigations. That is, diselosure of this infomation could result in the FBI's inability to protect the public from terroxsm and other criminal activity because, through puble disclosures, this technology has been rendered essentially useless for futare investigations. In order to ensure that such wireless collection cquipment/technology continues to be avalable for use by the law enforcement commmity, the equpmentechnology and any infomation related to its functions, operation, and use shall be protected from potental compromise by precluding disclosure of this information to the public in any maner including but not limited to: in press releases, in court documents, during judicial hearings, or during other public fonums or proceedings. Accordingly, the acguisition and use of the aorees to the followins conditions in comection with its

1. By entering into this agreement, the $\qquad$ affirms that it has statutory authority to lawfully employ this technology and will do so only in suppor of public safety operations or criminal investigations.
2. The $\square$ assumes responsibiby for operating the equipmentlechnology in accordance with Federal law and regulation and accepts sole liability for any viofations thereof, imespective of the Federal Bureau of Investigation approval, if any, for the sale of the equipnent/technology.
3. The will ensure that operators of the equipment have met he operator training standards identifed by the FBI and are certified to conduct operations.
4. The $\square$ will coordinate with the FBI in advance of its use of the wireless collection equipmenttechnology to ensure de-conthction of respective missions.
5. The
 will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipmentitechnology or any software, operating manuais, or related technical documentation (buchding its technical/engineering description(s) and capabilities) to the public, including to any nozlaw enforcement individuals or agencies.
6. The disclose any infomation conceming the wireless collection equipmenttechnology or any sofware, operating mannals, or related technical documentation (inchuding its technical/engineering description(s) and capabilities) provided to it to any other law enforcement or govermment agency without the prior writen approval of the FBL. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipmenttechnology or any sofiware, mannals, or related teelmical documentation related to such equipmentitechnology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of tir

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7. The Shall not in anv cival or criminal nocededing nise or provide any intomation concemng the $\square$ its associated sofvare, operamg manuals, and any related docmmentation (inciuding its technica/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipmenttechnology meluding, but not limited to, during pre-tial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavis, in grand jury hearings, in the State's caseminchief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, withont the prior written approval of the FBE. If tha
learns that a District Attomey, prosecutor, or a com is considering or intends to use or provide any information conceming the its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipmenttechnology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the $\square$ will immediately notify the FBI in order to allow sufficient fime for the FBI to intervene to protect the equipment/techology and information from disclosure and potential compromise.

Notification shall be directed to the attention of.

b6 -1
b7c -1
b7E -2,3
Engineering Research Facility
Building 27958A, PodA
Quantico, Virginia 22135
(703) 985-6100
and

Operational Technology Division
Federal Bureau of Investigation
Engincering Research Faclity Buiding 27958A, Pod B
Guantice Viroinga 22135
8. In addition the

will, at the request of the FBI, seek
b3 -1
b7E -1 dismissal of the case in net or usng or providing, or allowing others to use or provide. any information conceming the its associated sotware, operating manuals, and any related docmmentation (beyond the evidentary resuits obtaned through the use of the equipmenttechnology), if using or providing such information would potentially or actually compromise the equipmenttechnology. This point supposes that the agency has some control or influence over the prosecutorial process. Where such is not the case, or is limited so as to be inconsequential, it is the FBl's expectation that the law enforcement UNCL ASSEIED/IRW ENFURCTMENE SEMSTYE

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agency identify the appicable prosecuing agency, or agencies, for inclusion in this agrecment.
9. A conv of any court order in any proceeding in which the
b3 -1
b7E -1 related docunentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipmenthechnology and information from disclosure and potential compromise. Any swh court orders shall be directed to the attention of:


Federal Bureau of Investigation
b6 -1
Engineering Research Facility
b7c -1
Building 27958A, PodA
b7E -2,3

and

Operational lechnology Drvision
Federal Bureas of Investigation
Engineering Research Facility
Building 27958A. Pod B
Ouantico, Virginia 22135
10. Tha $\quad$ nat not priblicize its acquisition or use of the
b3 -1
b7E -1 eqmipment/techoology to the public, other faw enforement agencies, or oher goverment agencres, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.
11. In the event that the $\qquad$ receives a request pursuant to the Freedom of Information Act (5 U.S.C. 8552 ) or an equivalent state or local law, the civi or criminal discovery process, or other judicial legislative, or administrative process, to disclose information conceming the $\square$ wireless collection eqmpment techology, its associated soffware, operamy maxuals, and any related documentation (including its sechnical/engineering description(s) and capabilites), the telephonically and in writing in order to allow ffiry the FBl of any such request
 attention of:


Federal Bureau of investigation
Engineering Research Facility
Building 27958A, Pod A


```
b6 -1
b7C -1
b7E -2,3
```



Operational Technology Division
Federal Bureau of Investigation
Engineering Research Fachity
Building 27958A, Pod B
Quantico, Virginia 22135
(703) 985-6840

The $\square$ acceptance of the above conditions shall be evidenced
b3 -1
b7e -1
by the signatures below of an axthorized representative and wireless collection equipment operators of the

Sincerely,


Operakional Iechmology Division
Pederal Bureav of Investigation

$$
\begin{aligned}
& \text { b3 }-1 \\
& \text { b6 }-1,2 \\
& \text { b7c }-1,2 \\
& \text { b7E -1 }
\end{aligned}
$$



## UNCLASSIFIED/LAW GOORCREIEN SENGTHVE

D. 5 . Deparkment of Bustice<br>Federal Bureau of Investigation

Washington, DC. 20535-0001
May 2, 2014

|  |
| :---: |
|  |

Re: Acquisition of Wircless Collection Equipment/Technology and Non-
Disclosure Obligations Disclosure Obligations


#### Abstract

 enforcement, pwolic wafety or protection oficiols wh Individuchs with a need to know Distribuiny beyond these entites withow FB Operational Techology Dwision outhorization is prohbited. prectutows should be token to ensure the ingomatom is   posting the nformoton warked LES on a webite on ath whelosnifed nenvork


## Dear

$\square$


We have been advised by
 of the requess for acomsition of certain wireless collection equipmenutechnology manufactured by $\quad$ Consistent with the conditions on the equipment authorization granted to by the Federal Communications Commission (FCC), state and local law enforcement agencies mast coordinate with the Federal Bureau of Investigation (FBD) to complete this non-disclosure agrement prior to the acquisition and use of the equipment/techmology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/rechnology to conduct lawitly-authorized clectronic survellance. Disclosing the existence of and the capabilities provided by such equipmenttechnology to the publie would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipmenttechnology is used to employ counterneasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other UNCLASSIFIED/LAW ENORCPMEAY? SINHTHE
individnals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could restla in the FBI's inability to protec the publie from temorism and other criminal activity because, through public disclosures, this technology has been rendered essentally useless for future investigations. In order to casure that such wireless collection equipmentiechnology continues to be available for use by the law exforcement commmity, the equipnen/technology and any infomation related to its functions, operation, and use shall be protected from potential compromise by preclading disclosure of this information to the public in any manner inchding but not limited to: in press releases, in cours documents during indicial hearinas or daring other public forms or proceedings. Accordingly, the agrees to the following conditions in connection with iss acquisition and use of the

1. By entering into this agrement, the $\qquad$ affirms that is has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations.
2. The $\square$ assumes responsibilty for operating the equipmenttechnology in accordance with Federal law and regulation and accepts sole Lability for any violations thereof, imespective of the Federal Burean of Investigation approval, if any, for the sale of the equipnenttechnology.
3. The $\square$ will ensure that operators of the equipment have met the operator training standards identifed by the FBI and are certified to conduct operations.
4. The Will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confiction of respective missions.
5. The will not distribute, disseminate, or otherwise disclose any infomation conceming the wireless collection equipment/echnology or any sofware, operating manuals, or related technical docmentation (including its technical/enginecring description(s) and capabilities) to the public, including to any nonlaw enforcement indsviduals or agencies.
6. The vill not distribute, disseminate or otherwise diselose any information concerning the wireless collection equipment/echnology or any software, operating manats, or related technical documentation (ineleding its technical/engincering description(s) and capabilities) provided to it to any other law enforcement or government agency without the prior written approval of the FBI. Prior to any appoved distribution, dissemination, or comparable disclosure of any information conceming the wireless collection equipnenttechnology or any software, manuals, or related technical documentation related to such equipmentitechnology, all materials shall be marked Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the


7. 

The hall not. in any civil or criminal proceeding. ase ox provide any infomation conceming the $\square$
its associated software, operating manuals, and any related
b3 -1
b6 -2
b7c -2
b7E -1 docomentation (including its technical/engineering description(s) and capabilities) beyond the evidendaxy results obtained through the use of the equipmenttechmology including, but not limited to, during pre-inal matters, in search warrants and resated affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-inchef, rebutal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior writen approval of the FBI. If the $\square$ carns that a District Aftorney, prosecutor, of a court is considering or intends to use or provide any information concerning the
wireless collection equipment technology, its associated software, operating manals, and any related documentation (including is technical/engineering deseription(s) and capabilities) beyond the evidentary results obtaned through the use of the equipment/echnology in a manner that will cause law enforcement sencitive information relating to the technology to be made known to the public, the
will inmediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipmentfechnology and information from disclosure and potential compromise.

Notification shall be directed to the attention of:

b3 -1 b7E -1
8. In addition, the will, at the request of the FBI . seek dismissal of the case in liea of using or providing, or allowing ofters to nese or provide anv infomation conceming the
its associated software, vperamg mennals, and any related nocumentanon beyond the evidentiary results obtained through the ase of the equipmenttechology), if asing or providing such infomation would potentially or actually compromise the equipment technology. This point supposes that the agency has some control or influence over the prosectrorial process. Where such is not the case, or is limited so as to be inconsequential, it is the FBl's expectation that the law enforcement


## 

agency identify the applicable prosecuting agency, or agencies, for inclusion in this agrecment.
9. A copy of any court order in any proceeding in which the


Federal Bureaw of Investigation
Engineering Research Facility Building 27958A. Pod A

and
b6 -1
b7c -1
b7E -2,3

10. The will not publicize its acquisition or use of the equipmenticchnology or any of the capabilities afforded by such equipmenttechnology to the public, other law enforcement agencies, or other govermment agencies, holiuding, but not fimited to, in any news or press releases, interviews, or drect or indirect statements to the media.

```
b3 -1
b7E -1
```

11. In the event that the to the Freedom of Imomatnon Act (5 U.S.C. $\$ 552$ ) or an equivalent state or local law, the civil or crimina discovery process, or oher iudicial legislative or adninistrative process, to disclose information conceming the $\qquad$ Wireless collection equipmentlechnology, its associated software, operating manoals, and any related documeratation (includino its techmical/pngineering description(s) and capabilities), the will immediately notify the FBI of any such reybest vermoncany ang in wring in order to allow sufficient time for the FBt to seck to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:


## 

The $\square$ acceptance of the above conditions shall be evidenced by be signatuzes helow of an arrehotized renravamtitive and wireless collection equipnent operators of the

| Sincerely, | b3 -1 <br> b6 <br> b7 <br> b7c <br> b7E |
| :--- | :--- |
| b7E -1 |  |

Operational Technology Division
Federal Bureau of Investigation
Acknowledged and agreed to this $2 . y$ day of $\qquad$
May $\ldots$. ..... 2014.

$\square$

## FEDERAL BUREAU OF INVESTIGATION <br> Electronic Communication

Title


Date: 01/17/2019 b7E-7

Approved By: SSA $\square$

Drafted By: $\square$


Synopsis: (U) To document the use of
and 01/09/2019 to locate a target cell phone. CSS on 01/08/2019

Details:

b3 -1 b6 -1, 3 b7c -1,3 b7E $-1,3$

obtained a state search warrant for the use
 mission data was purged as required.


FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA\# 21-cv-10719

Total Deleted Page(s) $=3$
Page $5 \sim \mathrm{~b} 5--2 ;$
Page 6 ~ b5 - -2 ;
Page $7 \sim b 5-2$;
XXXXXXXXXXXXXXXXXXXXXXXX
$X$ Deleted Page(s) $X$
$X$ No Duplication Fee $X$
$X$ For this Page $X$ XXXXXXXXXXXXXXXXXXXXXXXXX

# FEDERAL BUREAU OF INVESTIGATION 

Electronic Communication


## I.AW ENFORCRNETI SENSIIIVE:

This information is the property of the $F B I$ and may be distributed to state, tribal, or local government law enforcement officials with a need-to-know. Further distribution without FBI authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access.

Synopsis: (U/T) Communication of interim policy regarding the
deployment of $\square$ b7E -1 technology.

Enclosure(s): Enclosed are the following items:

1. (U) Three paqe leqal policy document.
2. (U) One page non-disclosure notice. b7E -1

Details:
(U/ Effective immediately, the Deputy Director, in coordination
$\square$ Interim Policy EC
Re:
07/18/2014

assistance is expressly conditioned on the nondisclosure orovisions governing FBI information, as set forth in $\square$ and
 as well as in FBI policies on the protection, use, and dissemination of LES information and in any separate NDAs that may be in effect that treat LES matters. Prior to providing any $\square$ assistance, the approved notification language (attached) must be sent in writing or via e-mail to the RAO and the chief prosecutor (s), as applicable. Both the $\square$ must acknowledge receipt of the notice either in writing or via e-mail before FBI personnel can begin using the $\square$ equipment. Both the notification and the acknowledgements must be serialized and uploaded to the substantive domestic assistance case file opened for the case. All FBI personnel should note the interim policy merely requires notice, and an acknowledgement of receipt of our policy limitations on the provision of $\square$ assistance - neither the $\square$ nor the $\square$ are

## UNCLASSIFIED / / FOOK

## UNCLASSIFIED//FOz6

```
Title: (U) \ Interim Policy EC
```

b3 -1
b7E -3, 6

```
Re:
required to sign the document, and formal execution of a non-disclosure agreement is not required. FBI personnel may not amend, edit or change the approved notification language without the prior approval of the OTD.
(U//IXS) Finally, all FBI personnel are reminded all FBI \(\square\)

delegated the authority to approve requests, field office personnel do not have authority under \(\square\) to approve the \(\quad\) b6 -1 release, disclosure, sharing, decontrol, or sanitization of any LES b7e -2,3,5 information beyond the absolute minimum necessary to effectuate the actual provision of \(\square\) This limited authorization does not include authority to release, disclose, share, decontrol, or sanitize LES information for discovery or disclosure in connection with legal or administrative proceedings. Violations must be reported to the \(\square\) of the FBI division with programmatic responsibility and control over the equipment, technology, or method; the \(\square\) and the appropriate \(\square\)


\section*{UNCLASSIFIED / /FOEO}

\(\square\)

\section*{FEDERAL BUREAU OF INVESTIGATION}

Import Form

Form Type: EMAIL
Date: 03/24/2016

Title:(U) email open records

Approved By: \(\square\)
Drafted By: \(\square\)
b6 -1
b7C -1
b3 -1
b5 -2
b7E -1,6
（FBI）


\section*{SentinelCaseld：}

NON－RECORD

Classification：UNCLASSIFIED／
b3－1
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b5－1，2
b6－1，2
\(\square\)
If you have any questions please let me know．
Thanks，
\begin{tabular}{|c|}
\hline \\
\hline Classification：UNCLASSIFIED／E＠サ \\
\hline
\end{tabular}

\(\square\)
\(\square\)

b3 -1
To:
Cc: (FBI)
b5 -1,2
b6 -1,2
b7C -1,2 b7E -1
\begin{tabular}{|l|l|}
\(\square\) Has this been resolved? I just wanted to follow-up with you. \\
\hline
\end{tabular}

Thanks a lot.
\begin{tabular}{|c|c|}
\hline Division FBI & \\
\hline \(\mathrm{CC}: \square\) Division FBI & \\
\hline \multicolumn{2}{|l|}{} \\
\hline \multicolumn{2}{|l|}{From: \(\square\) [mailto: \(\square\)} \\
\hline \multicolumn{2}{|l|}{Sent: Friday, March 11, 2016 2:13 PM} \\
\hline \multicolumn{2}{|l|}{To: \(\square\) FBI)} \\
\hline \multicolumn{2}{|l|}{\(\mathrm{Cc}: \square\) (FBI)} \\
\hline \multicolumn{2}{|l|}{Subject: RE: Open Records Request - Cell Site Simulator} \\
\hline & \\
\hline \multicolumn{2}{|r|}{b5 -1,2} \\
\hline & b6 -1,2 \\
\hline & b7c -1, \\
\hline -----Original Message----- & b7E -1 \\
\hline \multicolumn{2}{|l|}{From: \(\square\) (FBI) [mailto:} \\
\hline \multicolumn{2}{|l|}{\multirow[t]{2}{*}{Sent: Friday, March 11, 2016 1:16 PM
To:}} \\
\hline & \\
\hline \multicolumn{2}{|l|}{CC: \(\square\) (FBI)} \\
\hline \multicolumn{2}{|l|}{Subject: FW: Open Records Request - Cell Site Simulator} \\
\hline \multicolumn{2}{|l|}{\multirow[t]{2}{*}{}} \\
\hline & \\
\hline & \\
\hline & \\
\hline & \\
\hline
\end{tabular}

Have a good week-end! \(\square\)
-----Original Message-----
From: \(\square\) (OTD) (FBI)
Sent: Wednesday, March 09, 2016 12:04 PM


b5 -1, 2
b6 -1
b7c -1
b7E -2,3
Operational Technology Division
Federal Bureau of Investigation
office:


Sent: Tuesday, March 08, 2016 3:04 PM


Subject: RE: Open Records Request - Cell Site Simulator

ciallty statement: This message is transmitted to you by the Office of the \(\qquad\) of the Federal Bureau of Investigation. The message, along with any attachments, may be confidential and legally privileged. If you are not the intended recipient of this message, please destroy it promptly without further retention or dissemination (unless otherwise required by law). Please notify the sender of the error by a separate e-mail or by calling \(\qquad\)
From: \(\square\) (FBI)

(FBI)
(FD) (CON)
Subject: FW: Open Records Request - Cell Site Simulator

Please feel free to correspond to \(\square\) directly, but please keep us in the loop so we can keep our Executive Management apprised.
\(\square\) Division FBI

\[
\begin{aligned}
& \text { b6 }-1,2 \\
& \text { b7c }-1,2
\end{aligned}
\]

From:

\(\square\) [mailto \(\qquad\)
Sent: Tuesday, March 08, 2016 8:55 AM
To: \(\square\)
Subject: FW: Open Records Request - Cell Site Simulator

The request we spoke about is attached.
From: \(\square\)
Sent-Mondav_March 07, 2016 3:43 PM
To:
Subject: Open Records Request - Cell Site Simulator
```

                                    b3 -1
    ```
                                    b5 -1, 2
                                    b6 -2,4
                                    b7c -2,4
                                    b7E -1

From: \(\square\)
Sent: Monday, March 07, 2016 2:44 PM
To:
Cc: \(\qquad\)
Subject: FW: Cell site simulator info request

\[
\begin{aligned}
& \text { b3 }-1 \\
& \text { b5 }-1,2 \\
& \text { b6 }-2,4 \\
& \text { b7c }-2,4 \\
& \text { b7E -1 }
\end{aligned}
\]

From:
Sent: Monday, March 07, 2016 10:42 AM
To:


Subject: FW: Cell site simulator info request
\(\square\) and \(\square\)
Dlease sen attarhed \(\square\)
From: \(\square\).org<mailto
[mailto
Sent: Fridav. March 04, 2016 1:54 PM
To:
Subject: Cell site simulator info request
Hi,


Thanks!

\section*{Subscribe to}

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I cc'dhim above. He goes by \(\square\)
We forwarded the request to our \(\square\) I am not sure if \(\qquad\) Is still in the position. We are waiting to hear from \(\qquad\) He should be getting back to us or you shortly. If you don't hear anything, feel free to reach out to me or
```

b6 -1,2
b7c -1,2
b7E -2

```

Good to work with you \(\square\) Keep us posted as we will you. Thanks a lot. \(\square\)
\(\square\)
From:
Original message --------
Date: 03/08/2016 1:09 PM (GMT-06:00)
To:
\[
\begin{aligned}
& \text { b3 }-1 \\
& \text { b6 }-1,2,3 \\
& \text { b7c }-1,2,3 \\
& \text { b7E }-1,2
\end{aligned}
\]
\(\square\) BI)" \(\square\)
Subject: RE: Open Records Request for \(\square\)
\(\square\)
I didn't get the new guy's email right, and I didn't write down his name either. Can you sent that along to me so that I will have a correct point of contact next time?



The FBI has no objections to \(\square\) releasing the NDA in this particular instance.
Thanks for working with us on this important matter,
\(\square\)
Federal Bureauof Investigation
(Office)
(Cell
(Fax)

\section*{Confidentiality Statement:}

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\begin{tabular}{ll} 
From, Wednesday February 25, 2015 9:32 AM & b7c \(-1,3\) \\
Sent: Wer \\
b7e -2
\end{tabular}

To: (OGC) (FBI)
\(\mathrm{Cc} \square\)
Subject: FW: Open Records Request for
\(\square\)
I have received your voice message and pursuant to that message I am sending my email address.alono with that of my colleague who also works on Open Records Act requests for the

I look forward to hearing from you regarding the Nondisclosure Notice/Letter Agreement pertaining to cell phone location technology.

```

b3 -1
b6 -2,3
b7c -2,3
b7E -1

```

Sent: Tuesday, February 03, 2015 10:56 AM
To:
***
Subject: Open Records Request for
CONFIDENTIALITY NOTE: This e-mail message and any attachments are intended solely for the person to which it is addressed and may contain privileged and confidential information protected by law. If you have received this communication in error, please notify the sender immediately by telephone or e-mail, destroy this message and delete any copies held in your electronic files. Unauthorized use and/or re-disclosure may subject you to penalties under applicable state and federal laws.

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I didn't get the new guy's email right, and I didn't write down his name either. Can you sent that along to me so that I will have a correct point of contact next time?

Subject: RE: Open Records Request for \(\square\)
```

b6 -1,2,3

```
b7c -1,2,3
b7E -2

Thank you \(\square\) We will coordinate with ou \(\square\)
Thanks you -
\(\square\)
From \(\square\) mailtc
Sent: Tuesday, March 08, 2016 8:51 AM

(FBI)
ds Request for \(\square\)
fyi
From \(\square\) (OGC) (FBI) [mailtd
```

b3 -1

```

Sent: Wednesday, February 25, 2015 3:54 PM
b6 \(-1,2,3\)
To
b7c -1,2,3
\(\mathrm{Cc} \square\) (OGC) (FBI)
b7E \(-1,2\)
Subject: RE: Open Records Request fo \(\square\)
\(\square\)
The FBI has no objections to \(\square\) eleasing the NDA in this particular instance.
Thanks for working with us on this important matter,
\(\square\)


CONFIDENTIALITY NOTE: This e-mail message and any attachments are intended solely for the person to which it is addressed and may contain privileged and confidential information protected by law. If you have received this communication in error, please notify the sender immediately by telephone or e-mail, destroy this message and delete any copies held in your electronic files. Unauthorized use and/or re-disclosure may subject you to penalties under applicable state and federal laws.

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message and delete any copies held in your electronic files. Unauthorized use and/or re-disclosure may subject you to penalties under applicable state and federal laws.


\section*{FEDERAL BUREAU OF INVESTIGATION}

\section*{Import Form}

Form Type: EMAIL

\author{
Date: 04/21/2016
}

Title:(U) Legal Advice \(\square\)

Approved By:


Drafted By:


Synopsis: (U) OTD Policy
\(\bullet\)
\begin{tabular}{|c|c|c|c|}
\hline \multirow[t]{2}{*}{From： Sent：} & \multicolumn{3}{|l|}{\multirow[t]{2}{*}{\(\square\) （FBI）}} \\
\hline & & & \\
\hline To： & \(\square\) & －CON） & \\
\hline Subject： & FW & Non－Disclosure Agreement－－－UNCLASSIFIED／／EOC & b3 -1 \\
\hline SentinelCaseld： & NON－RECORD & & b7c－1 \\
\hline
\end{tabular}

Classification：UNCLASSIFIED／／POUQ
DELIBERATIVE PROCESS PRIVILEGED DOCUMENT
＝ニニニニニニニニニニニニニニニニニニニニニニニニニニニニーニ＝＝＝＝＝＝＝＝＝＝＝＝＝＝＝＝＝＝＝＝＝＝＝

Administrative


Classification：UNCLASSIFIED／／EみOQ
DELIBERATIVE PROCESS PRIVILEGED DOCUMENT
```

b7E -1

```

ニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニニーニーニ

Thanks \(\square\) The attachment will be useful if we receive an inquiry．Please keep it handy．
\(\square\)


Classification：UNCLASSIFIED／TFOC b3－1
DELIBERATIVE PROCESS PRIVILEGED DOCUMENT
b6－1

Mr \(\square\)
Here is the response provided by OTD as to how to respond to inquiries regarding the CSS．I will read through this guidance as well to make sure we are prepared to respond in accordance with the policy if this situation arises．

Thanks，

From：
（OTD）（FBI）

（U／FOQD）All that out of the way

（U）Naturally，the stakeholders copied herein might wish to give their perspectives．．．

\(\square\)

Please provide whatever guidance you can on this issue．

Thanks again，
 Classification: UNCLASSIFIED/FOT
 Classification: UNCLASSIFIED//FORQ
 Classification: UNCLASSIFIED//FOW
 Classification: UNCLASSIFIED//
 Classification: UNCLASSIFIED//


\section*{FEDERAL BUREAU OF INVESTIGATION}

\section*{Import Form}

Form Type: EMAIL

\author{
Date: 04/21/2016
}

Title:(U) Legal Advice \(\square\)



Synopsis: (U) Legal Advice, OTD/non-disclosure


Administrative please.

Thanks,


\(\square\)
I agree on all counts. Thanks for filling me in. We should seek OTD guidance on how to proceed if this results in inquiries to us.

Thanks,
\(\square\)
From:

BI)
Sent: Wednesday, March 23, 2016 11:28 AM




\section*{FEDERAL BUREAU OF INVESTIGATION}

Import Form


\title{
U.S. Department of fustice
}

Federal Burean of mvestigation

Wachington, O. 20535000
Sune 7, 2016


IANINMG the Federal Bureau of Investigation (FBD). It may be distributed within the Federal Goverament (ond its contractors), to US. intelligence, law enforcenent, puble sofety or protection officials and individuals with a need to know only if awhorized by the FBL precautions should be taken to enswe this information is stored and/or destroyed in a nanurr that prechades whanhorized access. Infornation beaving the LES caveat noy not be used in legal proceedings without first receiving awhorization from the FBI. Recipients are prohibited from subseguently posting the information marked LES on a website on an unclassified nemork.

b3 -1
b7E -1,3
We have received a request from the
for specificaly use of a

The type of suppor requested is considered Law Enforement Sensitive/Classified and horetore consistent with FBl policy goveming these technologies and the novision at zomroval is contingent on both the
\(\square\) br the juriediction concerned, executing this nondisclosare agreement.

Disclosing the existence of and the capabilties provided by such equipnenthechnology to the publie would reveal sensitive technological capabilties possessed by the law enforement communty and may, anong other things, allow hodividuals who are the subject of investigation wherein this equipmenttechology is used to employ contermeasures to avoid detection by law entorcenent. This would not only potentially
 abso adversely impact criminal and national secmity mvestigations. Disclosure of this infomation could degrade the FBr's ablliy to protect the public from terronsm and other
criminal activity because, through public disclosures, this techology cond be renderea esentialy useless for future investigations. In order to ensure that such equiprocothechnology contmues to be available for use by the law enforcoment community, the equipment/techology and any infomation related to its hnotions, operaton, and use shall be protected from potentak compronise by prectuding dischosure of this infomation to the pubhe in any maner inchung, but not limited to: in press releases, in court documents, during fudicial hearings or durine other pablic fonums or poceedings. Accordingly, the \(\square\) following conditions in comection with its acceptance of the technical assistance requested:
b3 -1
b7E -1

2. Tha \(\square\) and \(\square\) assume responsibity for operating the equipmenthechnology in acondance with both State and Federal haw and regulation and accept sole habinty for any violations thereof, mespective of the Federal Bureau of Investigation appoval, if any, for the provision of the equipment/techoology. The Federal Bureaz of Investigations will conduct physicas operation of the cquipment.
3. The \(\square\) and \(\square\) will ensure that operator of the equipment have met the operator training standards identhed by the FBI and are cetthed to conduct operations.
4. The \(\longrightarrow\) will not disthbue, dissembate, or ofherwise disclose to be pable, moludng to any mon-law enforcement individuals or agencies, any intomation conceming the existence of the equipmentlechnology, and will not disclose any information relabing to the equipmenttechnology, including, but not hmited to any software, operating manuals, and/or related technical docmentation (inchoding its techncalengineering description(s) and capabilites).
b3 -1
b7E -1
5. The \(\square\) and \(\square\) will not distribute, disseminate, or othervise diselose to any other law enforcenent or govemment agency any infomation concening the equipment/tehnology or axy solware, operating manwals, or related techmical dommentation boluding its techncal/engheering descrintion(s) and carabibites) wrovided in \(\square\) nad \(\square\) Fithout the prior writen approval of the FBl.
6. Should the FB give its prior written approval to distribute, disseminate, or disclose any infomation about the technology/equiment grovided or any sofware, manuals, or related technical docmenentation, \(\square\) Mod \(\square\) b3 -1
b7E -1

7. The \(\square\) and \(\square\) shall not, in any administrative, civil or criminal proceeding, ase or provide any momation conceming equipmenthechoology, its associated sofware, operating manuals, and any related docmentation (including is technical/enginewing descripton(s) and capabilties) beyond the evidentiary results obtained through the use of the equipment/echnology inoluding, but not limited to, during pre-tial maters, in searh warants and related affidavits, in discovery, in response to cont ordered disclosure, in other afhdavits, in grand jury hearing, in the State's case-in-chef, rebutak, or on appeal, or in testimony in any phase of admimitrative proceding or civil or criminal tral, without the prior writen approval of the FBI; except where incomera proceedings are necessary to obtain cont appoval to use equipment and mantain secrecy regarding protected information.
8. If the \(\square\) leams that a District Attomey, prosecutor, or a cont is considering or intends to use or provide any infomation conceming the equipmentitechnology, its associated sotware, operating manuals, and any related docmentation (includng its technical/engineering description(s)
b3 -1
b7E -1 and capabinities) beyond the cvidentiary resolks obtained through the use of the equipmentitechology in a maner that will cause law enforcment sensitive information relating to the techology to be made known to the Cont or the prblic, the
 equipmenttechnology and information from disclosure and potential conpromise,

Notification shall be directed to the attention of:


b3 -1


Pederal Bureau of hevestigation
Engineering Research Fachity
Buiding 27958A, Pod A Quantico,
Viminia 20135

```

b6 -1

```
b7c -1
11. Neither the \(\square\) nor the
\(\square\) will publicize the ase of the equipmenthechnology or axy of the capabilties afforded by such equipment/echology to the public, other law enforeement agencies, or other goverment agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.
b3 -1
b7E -1

12 Access to these materials within the
 nor the

is to be restricted solely to employees who have both a strict need to know and that are actively working the investigation or incident for which the techmical assistance was requested. The FBI reserves the right to approve any individuals who require access to the information and to require these individuals to execute individual non-disclosure agrements.
13. Th the event that the \(\square\) or \(\square\) receves a request pursuant to the Freedom of Thomation Act (5 U.S.C. §552) or an equivalent state or local haw, the civil or criminal discovery process, or other jedicha, legislative, or administrative process, to disclose infomation concerning the equipnenttechology, iss associated sotware, operating mamals, and any related documentation (inchading its technical/engineming description(s) and capabilities), that \(\square\) br \(\square\) wili immadiately notify the FBI of any such request felephonically and in writug in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate chamels. Notification shall be dixected to the attention of,


> Division Federal Bureau of

Investigation Engineering
Research Facility Buiding
27958A, Pod A Quantico,
Virginia 22135 b3 -1
\(\square\)



Federal Bureau of hvestigation

Acknowledged and agreed to this \(7^{\text {th }}\) day of tune, 2016.

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\begin{array}{ll}
\text { b3 } & -1 \\
\text { b6 } & -2 \\
\text { b7c } & -2 \\
\text { b7E } & -1
\end{array}
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b6 -1
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b7E -1

Sent: Wednesday, March 30, 2016 3:53 PM
b6 -1 b7c -1
pease see commente the atached dowment


\(\square\)
Please provide proposed comments and edits in attached document to \(\square\)
action prior to submission. I am okay with the remainder of the letter as written.


Classification: UNCLASSIFIED/


 way Mennerday, Man 30')
\(\square\)


Classification: UNCLASSIFIED//反


\section*{My recommended edit:}



Classification: UNCLASSIFIED//FOR


 Chanes or add your own comments directy m the leter


Classification: UNCLASSIFIED//EO反



Please ses emailatahment betow. Can you address the comment hathe document, and wheach out to o see how she warts to hande the stgn-of.
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b6 -1
b7c -1
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Thank vou:
\begin{tabular}{|c|c|c|c|c|}
\hline From & OCA & & & b6-1 \\
\hline \multicolumn{3}{|l|}{\multirow[t]{2}{*}{Sent: Tuesday, March 29, 2016 11:02 AM}} & & b7c -1 \\
\hline & (DO) (FBI & & & b7E -1 \\
\hline Cc & DO) (FBI & (DO) (FBI) & \multirow[t]{2}{*}{DO) (FBI)} & \\
\hline \multicolumn{3}{|l|}{Subject: RE:} & & UNCLASSIFIED//F®甘O \\
\hline
\end{tabular}

Classification: UNCLASSIFIED//EOQ


\section*{<< File: Letter.docx >>}
much thanks \(\square\) n our offe took the STB content and put it in a narmetve letter form - see atached. i've got two guestions - one substantive and one proces. On the stbstantive isus, see comment reflected within -. fom a litte worted that the " back context. Is it possible to provide any aditional cetan? We abo need to have Dol review guickly before we finalie this - so let me know what you think. On the process issue -- typically, these would be signed ont at the AD or EAB level of the stakeholder dwison. Has there been any discussion of who will sign? My thought woud be \(\square\) but hapy to disuss. \(\quad \square\) an delver the signed leter once its finalized.


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Goodmonting \(\square\)
Atached is the ste response to the \(\square\) lease let us know if you have any questions. \begin{tabular}{l}
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\(\mathrm{~b} 7 \mathrm{c}-1\) \\
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\end{tabular}


Classification: UNCLASSIFIED/ So


518
Here is the final version whthout the tracked changes.


Thank wion: (ESU/OTD)



Classification: UNCLASSIFIED//Fめ女

Thanks \(\square\) you can accept the edfe, it's good to go.


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Here are the ctations.

b6 -1
b7c -1
b7E -2,3
 of lnvestigation. The message, along whe any attahments may be confdential and legaliy privileged. ti you are nor the intended recipten of this nessage, please destroy it promptly without futher retention or dissemmation (whess otherwise required by lav). Prease notify the sender of the eror by a separate enall or by callina \(\square\)

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Respectully,
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\hline
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\[
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\mathrm{b} 6 & -1 \\
\mathrm{~b} 7 \mathrm{c} & -1
\end{array}
\]

IMD/RIDS/POU
170 Marce Drive
Whohester, VA 22602```


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